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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARRYL MURRAY,

Plaintiff,

v.

ALLEN WEINSTEIN, Archivist  
of the United States,  
National Archives and  
Records Administration,

Defendant.

29

CIVIL ACTION  
NO. 05-4557

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EXHIBIT "1" IN SUPPORT OF  
GOVERNMENT'S MOTION  
FOR SUMMARY JUDGMENT

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(THE GOVERNMENT'S SUMMARY JUDGMENT MOTION,  
SUPPORTING MEMORANDUM, AND SUPPORTING EXHIBITS  
2 THROUGH 10 WERE FILED ELECTRONICALLY  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARRYL MURRAY, : Civil Action  
: NO. 05-4557

Plaintiff,

VS

ALLEN WEINSTEIN, Archivist  
of the United States,  
National Archives and  
Records Administration,

Defendant (s) .

Monday, November 20, 2006  
Philadelphia, Pennsylvania

Oral deposition of DARRYL MURRAY,  
taken pursuant to Notice, at the Office of the United  
States Attorney, 615 Chestnut Street, Suite 1250,  
Philadelphia, Pennsylvania, commencing at approximately  
11:10 a.m., on the above date, before Renee Helmar,  
Shorthand Reporter and Notary Public.

CLASS ACT COURT REPORTING AGENCY  
1420 Walnut Street 133 Gaither Drive  
Suite 1212 Suite H  
Philadelphia, PA 19103 Mt. Laurel, NJ 08054



| Page 2 |                                     | Page 4 |                       |
|--------|-------------------------------------|--------|-----------------------|
| 1      | APPEARANCES:                        | 1      | EXHIBITS              |
| 2      | Darryl Murray, pro se               | 2      | Murray-14 Letter 73   |
| 3      | By: DARRYL MURRAY                   | 3      | Murray-15 Letter 78   |
| 4      | 112 W. Champlost Avenue             | 4      | Murray-16 Letter 100  |
| 5      | Philadelphia, Pennsylvania 19120    | 5      | Murray-17 Document 93 |
| 6      | pro se for Plaintiff,               | 6      | Murray-18 Letter 117  |
| 7      | Darryl Murray                       | 7      | Murray-19 Letter 128  |
| 8      | United States Department of Justice | 8      |                       |
| 9      | United States Attorney's Office     | 9      |                       |
| 10     | By: GERALD B. SULLIVAN, ESQUIRE     | 10     |                       |
| 11     | 615 Chestnut Street                 | 11     |                       |
| 12     | Suite 1250                          | 12     |                       |
| 13     | Philadelphia, Pennsylvania 19106    | 13     |                       |
| 14     | Counsel for Defendants,             | 14     |                       |
| 15     | Allen Weinstein, Archivist of the   | 15     |                       |
| 16     | United States National Archives     | 16     |                       |
| 17     | ALSO PRESENT:                       | 17     |                       |
| 18     | John E. Davenport, Sr.              | 18     |                       |
| 19     |                                     | 19     |                       |
| 20     |                                     | 20     |                       |
| 21     |                                     | 21     |                       |
| 22     |                                     | 22     |                       |
| 23     |                                     | 23     |                       |
| 24     |                                     | 24     |                       |

  

| Page 3 |                           | Page 5 |  |
|--------|---------------------------|--------|--|
| 1      | INDEX                     | 1      | (Whereupon, the deposition                             |
| 2      |                           | 2      | commenced at 11:10 a.m.)                               |
| 3      | WITNESS PAGE              | 3      | ... Darryl Murray, residing at 112 W. Champlost        |
| 4      |                           | 4      | Avenue, Philadelphia, Pennsylvania, having been first  |
| 5      | DARRYL MURRAY             | 5      | duly sworn by a Notary Public within the State of      |
| 6      | By MR. Sullivan 5         | 6      | Pennsylvania, was examined and testified under oath as |
| 7      |                           | 7      | follows...   |
| 8      | ---                       | 8      | EXAMINATION  |
| 9      | EXHIBITS                  | 9      | BY MR. SULLIVAN:                                       |
| 10     |                           | 10     | Q Mr. Murray, my name is Jerry Sullivan, we            |
| 11     | NUMBER DESCRIPTION PAGE   | 11     | met, of course, before; I am the Assistant United      |
| 12     | Murray-1 Letter 20        | 12     | States Attorney, and in this lawsuit that you          |
| 13     | Murray-2 Document 21      | 13     | brought against the National Archives and Records      |
| 14     | Murray-3 Document 22      | 14     | Administration, I represent the agency.                |
| 15     | Murray-4 Document 27      | 15     | You've certainly have been present at                  |
| 16     | Murray-5 Letter 29        | 16     | other depositions in this case before, but let me      |
| 17     | Murray-6 Letter 33        | 17     | just go briefly through the preliminaries just so      |
| 18     | Murray-7 Letter 36        | 18     | that you understand, again, the protocol for the       |
| 19     | Murray-8 Document 42      | 19     | deposition.  |
| 20     | Murray-9 Document 44      | 20     | Do you understand that your testimony                  |
| 21     | Murray-10 Letter 70       | 21     | is under oath today?                                   |
| 22     | Murray-11 Letter 92       | 22     | A Yes.   |
| 23     | Murray-12 Photographs 73  | 23     | Q And that requires you to tell the truth,             |
| 24     | Murray-13 Photographs 108 | 24     | and the whole truth?                                   |

Page 6

1 A Yes.  
 2 Q If you do not understand one of my  
 3 questions, please let me know, and I will try to  
 4 rephrase it in a way that is understandable to you;  
 5 okay?  
 6 A Um-huh.  
 7 Q If you do answer, I am going to assume  
 8 that you understood my question; okay?  
 9 A Um-hum.  
 10 Q You just said, um-hum twice, by that, did  
 11 you mean, yes?  
 12 A Yes.  
 13 Q Okay, and as you know, one of the  
 14 important things about a deposition, and one of the  
 15 important things to do is to make sure your  
 16 responses are oral in words, not shrugs of the  
 17 shoulder, not um-hum, but yes, no, or a substantiated  
 18 response; do you understand that?  
 19 A Um-hum. Yes.  
 20 Q The other thing is, we have to be careful  
 21 not to talk over each other; I have a tendency to do  
 22 that, please let me know that I am talking over your  
 23 answer, and I ask that you not speak over my  
 24 questions and you wait for me to finish before you

Page 7

1 respond; is that understandable?  
 2 A Yes.  
 3 Q Agreeable?  
 4 A Agreeable.  
 5 Q If you don't know the answer to a  
 6 question, you can certainly say, I don't know; do  
 7 you understand?  
 8 A Understand.  
 9 Q If you don't remember the answer, if you  
 10 don't remember what I am asking you about, you can  
 11 certainly say I don't remember; do you understand?  
 12 A I understand.  
 13 Q Are you on any medications today that  
 14 would impair your ability to understand, listen to  
 15 and respond to my questions?  
 16 A No.  
 17 Q Today present is John Davenport, Agency  
 18 Counsel, and you met him before?  
 19 A Yes.  
 20 Q Please state your full name.  
 21 A Darryl Murray.  
 22 Q Do you have any middle name?  
 23 A No middle name.  
 24 Q And what is your current address, resident

Page 8

1 address?  
 2 A 112 West Champlost Avenue, Philadelphia  
 3 PA.  
 4 Q C-H-A-M-P-L-O-S-T?  
 5 A Yes.  
 6 Q What is your Social Security number?  
 7 A 171-56-5399.  
 8 Q Have you ever been deposed before?  
 9 A Not personally; I have been at them with  
 10 other people, but I have never.  
 11 Q You have never been deposed?  
 12 A No.  
 13 Q I am going to ask you some questions, to  
 14 speed -- in away that will speed things along. I  
 15 know a little bit about you from the file so, I am  
 16 going to ask you, for example, you graduated from  
 17 Germantown High School; is that correct?  
 18 A Correct.  
 19 Q What year?  
 20 A 1980.  
 21 Q And did you then go to Temple University?  
 22 A Yes.  
 23 Q What year did you start there?  
 24 A '82.

Page 9

1 Q And how long did you attend?  
 2 A Till '87.  
 3 Q Were you full-time, or part-time?  
 4 A Full-time.  
 5 Q Did you get a degree from Temple?  
 6 A Yes.  
 7 Q What was your degree?  
 8 A Bachelor of science.  
 9 Q In what subject area?  
 10 A Chemistry.  
 11 Q Do you have any minor subject areas?  
 12 A Mathematics.  
 13 Q Were you ever married?  
 14 A Yes.  
 15 Q Are you married currently?  
 16 A Separated.  
 17 Q You are not divorced?  
 18 A In the process.  
 19 Q How many times have you been married?  
 20 A Once.  
 21 Q And were you married to Kathy Lynn Cross,  
 22 L-Y-N-N C-R-O-S-S?  
 23 A Yes.  
 24 Q And is her date of birth, August 23rd,

3 (Pages 6 to 9)

| Page 10  | Page 12  |
|--|--|
| <p>1 1962?</p> <p>2 A Yes.</p> <p>3 Q And you were married on June 21st, 1982?</p> <p>4 A Yes.</p> <p>5 Q In Philadelphia?</p> <p>6 A Yes.</p> <p>7 Q And you say that you are in the process of</p> <p>8 divorce, have the divorce papers been filed?</p> <p>9 A Not yet.</p> <p>10 Q Have you had any children with anybody</p> <p>11 other than Miss Cross?</p> <p>12 A No.</p> <p>13 Q Does she go by Cross as the last name now?</p> <p>14 A Yes.</p> <p>15 Q You haven't had any children with anybody</p> <p>16 other than her?</p> <p>17 A No.</p> <p>18 Q How many children have you had with her?</p> <p>19 A One.</p> <p>20 Q Okay, and is that a daughter?</p> <p>21 A That is a daughter.</p> <p>22 Q And she was born in 1981?</p> <p>23 A '81.</p> <p>24 Q Where is she living, currently?</p>  | <p>1 Nation of Islam?</p> <p>2 A Some.</p> <p>3 Q Do you consider yourself Islamic?</p> <p>4 A Yes.</p> <p>5 Q When did you begin work for the National</p> <p>6 Archives and Records Administration?</p> <p>7 A I believe the summer of 1987.</p> <p>8 Q Were you full or part-time, temporary or</p> <p>9 permanent?</p> <p>10 A Part-time temp.</p> <p>11 Q And was the facility you were working at,</p> <p>12 the Records Center?</p> <p>13 A Yes, it was.</p> <p>14 Q And where was that located at?</p> <p>15 A 5000 Wissahickon Avenue.</p> <p>16 Q When did you become full-time?</p> <p>17 A Around '97, 1997.</p> <p>18 Q So between 1987 and 1997 you were</p> <p>19 part-time?</p> <p>20 A Correct.</p> <p>21 Q What position did you begin working at the</p> <p>22 National Archives?</p> <p>23 A As the archives aid.</p> <p>24 Q How long did you hold that position?</p>                                   |
| Page 11  | Page 13  |
| <p>1 A With me.</p> <p>2 Q Does she work?</p> <p>3 A Yes.</p> <p>4 Q What does she do?</p> <p>5 A Some kind of State Department -- not State</p> <p>6 Department, a State job, for the State.</p> <p>7 Q Do you know what the job is?</p> <p>8 A No.</p> <p>9 Q What is her age, currently?</p> <p>10 A 24.</p> <p>11 Q Do you adhere to any religion, currently?</p> <p>12 A Not a practicing, but I believe in the</p> <p>13 Islamic, but I am not a practicing; I don't attend</p> <p>14 any services anywhere.</p> <p>15 Q How long have you held the Islamic</p> <p>16 beliefs?</p> <p>17 A Over 20 years.</p> <p>18 Q You don't attend a Mosque, or any type of</p> <p>19 formal religious group?</p> <p>20 A No.</p> <p>21 Q Are you a believer in any variation of</p> <p>22 Islam?</p> <p>23 A No.</p> <p>24 Q Do you subscribe to the Views of the</p> | <p>1 A 17 years.</p> <p>2 Q What grade level was that?</p> <p>3 A GS-2. GS-2.</p> <p>4 Q And you, at some point, become a GS-3?</p> <p>5 A On conversion to being a perm.</p> <p>6 Q When was that, in 1997?</p> <p>7 A Yes.</p> <p>8 Q What was the position that you became that</p> <p>9 was a GS-3 level?</p> <p>10 A State --</p> <p>11 Q Archives technician?</p> <p>12 A No, archives aid.</p> <p>13 Q How long did you keep the position of</p> <p>14 archives aid?</p> <p>15 A From 1997 till November of 2004.</p> <p>16 Q So until you left employment at the</p> <p>17 National Archives, you had that position?</p> <p>18 A Correct.</p> <p>19 Q After '97, or beginning in '97?</p> <p>20 A Correct. Yes.</p> <p>21 Q Did you, at some point, move from the</p> <p>22 Wissahickon facility to another facility?</p> <p>23 A Yes, we relocated to 14,700 Townsend Road</p> <p>24 in Northeast Philadelphia.</p> |

4 (Pages 10 to 13)

1 Q When did you move from the Wissahickon  
2 Avenue to Townsend Road?  
3 A 1997.  
4 Q What was the last work group that you  
5 worked with at the record center?  
6 A That would be the Trust Fund Section.  
7 Q What does the Trust Fund Section do?  
8 A We serviced the bankruptcy case files for  
9 the District Court.  
10 Q When did you start working for the Trust  
11 Fund Section?  
12 A 2003.  
13 Q What section did you work in before that?  
14 A General Records.  
15 Q In the Trust Fund Section, who was your  
16 first line supervisor when you left for the National  
17 Archives?  
18 A Elizabeth Washington.  
19 Q How long had she been your first line  
20 supervisor?  
21 A About a year.  
22 Q Who was your first line supervisor before  
23 that?  
24 A (No response.)

1 Q Was it John McGee?  
2 A John McGee.  
3 Q M-c-G-E-E?  
4 A Yes.  
5 Q How long had he been your first line  
6 supervisor?  
7 A About three years.  
8 Q And before he was your first line  
9 supervisor, who was your first line supervisor?  
10 A Andrew Rouche (phonetic).  
11 Q You said that you were in General Records  
12 before you were in the Trust Fund Section; how long  
13 were you in General Records?  
14 A From 1997 until 2003.  
15 Q Before you were in General Records, what  
16 section were you in?  
17 A General Records even from -- I was in  
18 General Records from '87 up til '97, and then  
19 continued on from '97 til 2003.  
20 Q In the Trust Fund group, how many  
21 employees -- how many coworkers did you have?  
22 A Approximately 15.  
23 Q If you know, what was Ms. Washington's  
24 race and religion?

1 A African-American, Episcopal.  
2 Q What was the race composition of your  
3 coworkers in the Trust Fund Section?  
4 A Well, I was the only Muslim, one Jewish  
5 employee, I think one Catholic, and, I think, the  
6 rest were all Christians.  
7 Q How many were African-American?  
8 A Out of the 15, I think 13.  
9 Q Okay. Do you ever have a coworker at the  
10 National Archives and Records Administration  
11 Facility that is a different level?  
12 A Not a coworker.  
13 Q Now, if you could just describe briefly  
14 for me in layman's terms what you, as an Archives --  
15 A Aid.  
16 Q -- aid would do on a daily basis?  
17 A Retrieve government case files, file  
18 documents and refile documents.  
19 Q Might the United States District Court,  
20 for example, make a request for a file in the record  
21 section?  
22 A Yes.  
23 Q When you were in General Records, were  
24 you, sometimes, responsible for retrieving United

1 States District Court files when they were requested  
2 by the Court?  
3 A Yes.  
4 Q When you were in the Trust Fund, what  
5 types of files did you retrieve?  
6 A Anything from A to Z, Justice Department,  
7 FBI, Customs, Immigration, Food and Drug  
8 Administration, DEA, IRS, the Federal Agency  
9 Assistance.  
10 Q And were the record requests sometimes  
11 time sensitive?  
12 A I mean, they usually wanted them pulled  
13 the same day and sent out the same day, if possible.  
14 (Whereupon, a brief recess was  
15 taken.)  
16 BY MR. SULLIVAN:  
17 Q Mr. Murray, you certainly seen reference  
18 in the documents that have been produced in the case  
19 so far in the events and allegations of 1995 and  
20 1996 regarding materials that you were alleged to  
21 have placed in a smoke room, or break room, while  
22 you were at the Wissahickon facility; can you tell  
23 me what happened?  
24 A The only thing that I can -- my

1 understanding really is --  
 2 Q And I should tell you, you've seen  
 3 Director Roland's November 2004 letter to summarize  
 4 this incident --  
 5 A Yes.  
 6 Q -- and he says in that letter to you that  
 7 the agency received a complaint from the Director of  
 8 Personnel, Veterans Administration Regional Office  
 9 that you had left photo copies of highlighted pages  
 10 of a Nation of Islam Publications in the Veterans  
 11 Administration Regional Office break room; now, at  
 12 that time did the National Archives Records Center  
 13 share a break room with the Veterans Administration?  
 14 A No, two separate break rooms.  
 15 Q Okay, but they were close to each other?  
 16 A About 75 feet apart, I guess.  
 17 Q Okay, so you were familiar with the  
 18 Veterans Administration break room at the time?  
 19 A Um-hum.  
 20 Q Mr. Roland went on to tell you -- to write  
 21 in the November 2004 letter that you had been  
 22 counseled, that you are not to display information  
 23 regarding your beliefs anywhere in the workplace, he  
 24 recounts that in April 1996 that you signed a

1 memorandum of agreement with the agency that you  
 2 agreed you would not post or distribute any  
 3 objectionable material in the work place, in return  
 4 the agency would cancel its decision to effect the  
 5 14-day suspension; what happened?  
 6 A The best of my recollection with the  
 7 incident and the Veterans Administration Program, I  
 8 used to go there and just meet and have lunch,  
 9 sometimes, with Muslims that worked with the  
 10 Veterans Administration. And one day when I was  
 11 finishing lunch and leaving, a gentleman asked me,  
 12 could he read some pages that I had, and I told him,  
 13 fine, you could have them, and then, I think, the  
 14 next day is when I was told something about, I left  
 15 information in the room that somebody was asking  
 16 for, and I didn't know what he was talking about,  
 17 except for, you know, the pages that I let the  
 18 gentleman read.  
 19 Q Did you, at any time, in 1995, 1996 post  
 20 anywhere in the workplace, at the National Archives  
 21 Records Center, or the adjacent Veterans  
 22 Administration property, anything on any wall?  
 23 A No.  
 24 Q Nothing at all?

1 A No, nothing.  
 2 Q Did you ever distribute to anyone any  
 3 document related to any personal belief that you  
 4 have, other than the one that you just referred to?  
 5 A No, none.  
 6 Q I am going to have marked as Murray-1, a  
 7 letter that I will show you in a second, that is  
 8 dated March 23rd, 1995, it is from Gloria Grouzos,  
 9 G-R-O-U-Z-O-S, the chief of the service branch at  
 10 the record center, to you.  
 11 (Whereupon a document was marked  
 12 for identification as Exhibit  
 13 Murray-1.)  
 14 BY MR. SULLIVAN:  
 15 Q Mr. Murray, could you take a quick look at  
 16 that?  
 17 A I have seen it before.  
 18 Q Okay, and this states that you displayed  
 19 in the break room posters, signs, flyers, newspaper  
 20 clippings and other forms of information relating to  
 21 the beliefs of the Nation of Islam. These have  
 22 contained statements regarding the racial, political  
 23 and religious matters; is that true or untrue that  
 24 you did that?

1 A It is untrue.  
 2 Q In the second paragraph, about halfway  
 3 through it, you are directed to immediately stop  
 4 from distributing or posting any materials in the  
 5 workplace. Your failure to comply will be the basis  
 6 for charging you with insubordination and taking  
 7 disciplinary action, which could include your  
 8 removal from Federal service; did you read this  
 9 letter in 1995?  
 10 A Yes.  
 11 Q And you understood that you were being  
 12 directed not to post such materials?  
 13 A Yes.  
 14 Q I am going to show you in just a second  
 15 what I will have marked Murray-2; it is a  
 16 March 13th, 1995 notice from Gloria Grouzos, again,  
 17 to you.  
 18 (Whereupon, a document was  
 19 marked for identification as  
 20 Exhibit Murray-2.)  
 21 BY MR. SULLIVAN:  
 22 Q If you could take a quick look at that,  
 23 Mr. Murray, I would appreciate it.  
 24 A The second document, I don't recall ever

1 seeing this one.  
 2 Q Murray-2?  
 3 A Murray-2.  
 4 Q This says that it is a notice to --  
 5 proposing to suspend you for a period of 14 calendar  
 6 days from your position, and as a basis for the  
 7 notice, it states an incident of misconduct relating  
 8 to distribution of a Nation of Islam publication;  
 9 you never seen this before?  
 10 A No.  
 11 Excuse me, I requested some documents  
 12 be sent to me, that's when I saw it then.  
 13 Q Okay.  
 14 A I didn't see it before then.  
 15 Q Did you see this in 1995?  
 16 A No.  
 17 Q Are you sure?  
 18 A Sure.  
 19 Q I am not going to mark this document yet,  
 20 I just ask you if you ever seen this document  
 21 before?  
 22 A Yes.  
 23 Q Okay, I will mark it as Murray-3.  
 24 (Whereupon, a document was

1 marked for identification as  
 2 Exhibit Murray-3.)  
 3 BY MR. SULLIVAN:  
 4 Q Where have you seen Murray-3 before,  
 5 Mr. Murray?  
 6 A This was posted in the -- my -- the small  
 7 picture in the left, bottom corner, minus that  
 8 picture (indicating), this was posted in the mail  
 9 room at 5000 Wissahickon Avenue in the National  
 10 Archives and Records Administration office.  
 11 Q Is any of the writing on this document  
 12 yours?  
 13 A Yes, the notes in the corners are mine.  
 14 Q In the top left-hand corner it says,  
 15 "Notice Them", and then it has a number of comments  
 16 beginning with 1 and going down to 9; are any of  
 17 those your notes, your handwriting?  
 18 A Yes, numbers 1 through 20 are comments I  
 19 found -- this was in -- this one was in the mail  
 20 room, but there were copies of it through the  
 21 warehouse, and -- but I had listed here.  
 22 Q Let me ask you this, what, on this  
 23 document is not something that you placed on it?  
 24 A I copied these 20 comments from other

1 pages that were in similar posters in the warehouse,  
 2 and the ones with the -- that are paler are my  
 3 comments.  
 4 Q I'm sorry, there is handwriting on this  
 5 document, there is a series of numerated comments  
 6 beginning with 1, going down to 20, are those yours?  
 7 A Those are mine.  
 8 Q Okay. So, complexion, broad nose, et  
 9 cetera, et cetera, those are all yours?  
 10 A That's correct.  
 11 Q There is also a picture of, what looks  
 12 like Jesus Christ on the document; did you place  
 13 that picture on this document?  
 14 A That is a picture of Vlad the Impaler.  
 15 Q That is a picture of Vlad the Impaler?  
 16 A Yes.  
 17 Q Did you place that picture on the  
 18 document?  
 19 A Yes.  
 20 Q There are words written on that picture;  
 21 did you write those words?  
 22 A Yes.  
 23 Q The picture in the middle looks like a  
 24 picture of a mole, is that your understanding?

1 A Yes.  
 2 Q In a suit?  
 3 A (No response.)  
 4 Q In a suit; is that correct?  
 5 A Correct.  
 6 Q Are you saying that that picture was  
 7 posted somewhere in the work place?  
 8 A Yes.  
 9 Q Do you know who posted it in the  
 10 workplace?  
 11 A No.  
 12 Q Why did you write on this document what  
 13 you wrote on this document and placed the picture of  
 14 Vlad the Impaler there?  
 15 A I had asked Mr. Weber, was this some kind  
 16 of an insult regarding the African-American  
 17 employees there, and he said it wasn't; he said the  
 18 photograph was originally white, but from Xeroxing  
 19 it, that it became dark, and that was his  
 20 explanation.  
 21 Q The picture of the mole?  
 22 A The picture of the mole.  
 23 Q So, in response to that, you did what?  
 24 A I had put the picture on here to show him

1 that if you Xeroxed it, it wouldn't get dark like  
2 that. You couldn't, you know, blacken it out just  
3 from Xeroxing it.

4 Q Once you wrote these comments on this  
5 picture and put the picture -- you are describing as  
6 Vlad the Impaler on it, did you put this document  
7 anywhere, or share it with anybody?

8 A No. The last time I saw it, I think it  
9 was in the smoke room when I must have handed it to  
10 the gentleman when I handed him the paper about the  
11 million man march, it must have been on the bottom  
12 of it.

13 Q So you handed this document to someone in  
14 the breakroom?

15 A It must have been, because I didn't have  
16 it after that.

17 Q And what was the intent of your comments?

18 A Oh, the 20 comments weren't mine, I copied  
19 those comments off of other postings that we had in  
20 the warehouse, it was similar, identical pictures of  
21 the black mole, in different places they had  
22 comments about that.

23 Q Who had put those comments there?

24 A I have no idea.

1 Q I am going to have marked as Murray-4 --  
2 (Whereupon, a document was  
3 marked for identification as  
4 Exhibit Murray-4.)

5 BY MR. SULLIVAN:

6 Q The document that is entitled, Memorandum  
7 of Agreement, signed by David Weber and you in April  
8 of 1996; is that your signature on the second page?

9 A Yes, it is.

10 Q Do you recall this document?

11 A Yes.

12 Q And was this an agreement that you reached  
13 with the agency regarding issues in part related to  
14 your alleged posting distribution of materials at  
15 the workplace in 1995 and 1996?

16 A I guess it is related to it.

17 Q And as part of the agreement, did -- does  
18 the agreement state Mr. Weber, the deciding  
19 official, has determined that the 14-day suspension  
20 is for the efficiency of the service and should be  
21 effected. However, this suspension will be held in  
22 abeyance for one year from the date of this  
23 agreement, subject to the following: execution of  
24 the agreement and compliance with each of the

1 provisions outlined below?

2 A Yes.

3 Q Okay. And then Provision C states that,  
4 "Darryl Murray agrees that he will not post or  
5 distribute any materials in the workplace, including  
6 any work spaces which may belong to, or are shared  
7 with other organizations. Darryl Murray understands  
8 that this means that he may not distribute any  
9 materials in the workplace even during lunch  
10 periods, breaks, or before or after working hours."  
11 Correct?

12 A Correct.

13 Q And what did you understand that promise  
14 of yours to mean?

15 A Not to bring any Islamic literature into  
16 the workplace.

17 Q It says, "Will not post or distribute any  
18 materials in the workplace." Did you understand  
19 that you were not to bring any, or post any  
20 materials in the workplace?

21 A Yes, but I had never done it, so I didn't.

22 Q But you understood this was a binding  
23 agreement on your part?

24 A Yes.

1 Q Did you understand that if you did not  
2 comply, that the suspension would you go into  
3 effect?

4 A Yes.

5 Q Did you have any understanding that this  
6 was ever not an agreement that was effective for  
7 you?

8 A No, I thought it was in effect for a year  
9 like he said.

10 Q Did you understand that it was a  
11 commitment that you had, even beyond the year?

12 A Oh, yes.

13 Q So that was a requirement for the entire  
14 time that you were at the facility?

15 A Yes, definitely.

16 Q Mr. Murray, I am going to have marked as  
17 Murray-5, and I will ask you to take a look at it in  
18 a second.

19 (Whereupon, a document was  
20 marked for identification as  
21 Exhibit Murray-5.)

22 BY MR. SULLIVAN:

23 Q You can take a look at this. This is a  
24 handwritten memo dated November 20, 2000 from Darryl

1 Murray, employee, subject: imminent violence in the  
2 workplace. Is this your handwriting?

3 A Yes, it is.

4 Q The document states, "Recent intelligence  
5 reports have revealed that the FRC clique, Mitchell  
6 Buffone" someone Dawson --

7 A Reather.

8 Q -- "Reather Dawson, Hercules Robinson and  
9 Pat Davis have declared war on myself and my  
10 intelligence agents." Did you write that?

11 A Yes.

12 Q It also states, "Today I spoke to senior  
13 members of the clique and encountered extremely  
14 hostile reactions. The clique feels that I  
15 represent a clear and present threat to their  
16 authority and power. They will leave no stone  
17 unturned in having me removed from Federal service.  
18 Did you write that?

19 A Yes.

20 Q It also says, "The clique is currently  
21 trying to provoke me into committing an act of  
22 violence against one of it's members. They know the  
23 violence that I am capable of, and hope that they  
24 can use it against me." Did you write that?

1 A Yes.

2 Q You finally write, "I strongly recommend  
3 that the clique be counseled before I decide to take  
4 retaliatory measures. This situation requires your  
5 immediate attention." Did you write that?

6 A Yes.

7 Q Who is this directed to?

8 A I think I was sending it to -- I don't  
9 know who the director was then, I think April.

10 Q And you say this clique has declared war  
11 on you and your intelligence agents; what do you  
12 mean by that?

13 A Mitchell Buffone had, like, declared war  
14 on me and my associate friends in the workplace.

15 Q How did he do that?

16 A Just harassment and stirring up trouble,  
17 starting rumors.

18 Q Mitchell Buffone is a coworker?

19 A Yes.

20 Q Or he was?

21 A Was a coworker.

22 Q What GS level was he at the time?

23 A At the time, he was GS-6.

24 Q Your statement that the clique clearly

1 represents clear and present threats to their  
2 authority in power; what did you mean by that, and  
3 what was that based on?

4 A The clique is used to bullying, picking on  
5 people, harassing them, and I was always the  
6 employee who would tell the other employees, you  
7 don't have to take that; you can't talk to me like  
8 this or that; they saw me as a -- interfering with  
9 them having fun with the lower grade employees.

10 Q You said the clique is trying to provoke  
11 me into committing an act of violence against one of  
12 its members; what do you mean by that?

13 A Whatever the incident was then, I really  
14 don't clearly remember it right now to speak on it.

15 Q You say, they know the violence I am  
16 capable of and hope that they can use it against me;  
17 what do you mean, the violence that I am capable of?

18 A I think I meant, being raised, raised in  
19 the streets, I am quite capable of fighting back if  
20 I have to.

21 Q You mentioned a strong recommendation that  
22 the clique be counseled before you decide to take  
23 retaliatory measures; what retaliatory measures were  
24 you considering?

1 A Possibly a fist fight.

2 Q Okay, did anybody in management -- you  
3 actually gave this to Mr. Roland you think?

4 A Yes.

5 Q Did anybody in management ever respond to  
6 this?

7 A No.

8 Q Mr. Murray, I am going to have marked as  
9 Murray-6, a memo dated October 26th, 2001 from John  
10 McGee to you, the subject of in-house counseling  
11 letter.

12 (Whereupon, a document was  
13 marked for identification as  
14 Exhibit Murray-6.)

15 BY MR. SULLIVAN:

16 Q Take a look at this document.

17 A I recognize it.

18 Q Okay, this refers to an incident, I  
19 believe and I understand, from 2001 in which some  
20 boxes ended up at the Social Security Administration  
21 with red magic marker writing on them, some  
22 statement that appears to be in Arabic; do you  
23 recall that?

24 A Yes.

1 Q And is it true that you admitted to the  
2 agency at some point you had written the comments on  
3 the boxes?

4 A Yes.

5 Q What were the comments?

6 A My name in Arabic, or a nickname, The  
7 Great Muteh of High Akbar and --

8 Q Could you spell that?

9 A The Great Muteh, M-U-T-A-H, and  
10 Allahu-Akbar, A-L-L-A-H-U - A-K-B-A-R.

11 Q Did you write anything else on the boxes?

12 A On that box, no. I think there was  
13 another one I had written something on it that I was  
14 going to put some personal papers in, dealing with  
15 biology or something, Homo sapiens or something like  
16 that.

17 Q Was this right after September 11th, 2001?

18 A Yes.

19 Q Okay. Did Federal Protective Services  
20 become involved in investigating this?

21 A Yes.

22 Q Why did you write the comments that you  
23 wrote on the boxes?

24 A Well, the boxes were intended for personal

1 use; we have utility carts that we keep our supplies  
2 in, and the employees, they write their names and  
3 nicknames on them so that people would know not to  
4 steal their property, or just to leave an extra pair  
5 of shoes in, or smock, or gloves, or scissors, or  
6 tape, stuff like that. So it wasn't -- the box  
7 wasn't supposed to go out, and we have a lot of temp  
8 employees that come in, and sometimes they will be  
9 lazy and don't go get their own boxes; they see a  
10 box on a cart and they will just take that box and  
11 throw stuff in it. Once we send those boxes out to  
12 Social Security, they take the files out of the  
13 boxes and discard them in the trash, so the boxes  
14 don't have to be in perfect condition, or, you know,  
15 pristine clean. And I told my supervisor, I think  
16 somebody took the box, you know, off my cart and  
17 just used it, and that's how it ended up going out.

18 Q Did you know before the boxes went to  
19 Social Security that they were going to Social  
20 Security?

21 A No.

22 Q Okay. What was your reaction when you  
23 found out they had gone to Social Security?

24 A I was a little upset, I felt that somebody

1 got me in trouble, not intentionally, but just by  
2 tampering with the box, using it. And after that, I  
3 just made sure, you know, that I didn't put anything  
4 on the box again.

5 Q And did you then make a formal apology?

6 A Yes.

7 Q Mr. Murray, I am going to show you what I  
8 will have marked as Murray-7, it is a memo from you  
9 to Elizabeth Washington dated April 25, 2003.

10 (Whereupon, a document was  
11 marked for identification as  
12 Exhibit Murray-7.)

13 BY MR. SULLIVAN:

14 Q Take a look at this, please, and let me  
15 know if you've seen it before?

16 A This is my handwriting, if I am recalling  
17 all the information in it.

18 Q But, feel free to take more time as we are  
19 going through, I am going to ask you some questions  
20 This says, response to today's meeting; do you  
21 recall meeting with Ms. Washington, your first line  
22 supervisor in, or around April 2003, regarding your  
23 being transferred?

24 A I can't recall a meeting, but I know that

1 I had to.

2 Q Were you transferred around that time from  
3 the General Records Section to the Trust Section,  
4 Trust Fund Section?

5 A Can't remember for sure.

6 Q When were you transferred?

7 A I think it was in 2003.

8 Q Did you have concerns, at that time, about  
9 the transfer?

10 A I might have.

11 Q Okay. Had your PE scores been dropping?

12 A Yes.

13 Q What is a PE score?

14 A It is a numerical indicator of how much  
15 work you've done on particular tasks by the hour, or  
16 in an eight hour period.

17 Q Did you have concerns about your scores  
18 dropping, and the reasons for that -- the drop?

19 A Yes.

20 Q What were your concerns?

21 A In the section that I was transferred to,  
22 it required a lot more extensive walking over the  
23 perimeter of the building, which is about three or  
24 four City blocks inside, and I was having a problem

1 with my legs.  
 2 Q What was your problem with your legs?  
 3 A Doctors think that I have rheumatoid  
 4 arthritis.  
 5 Q Did you express that concern with Ms.  
 6 Washington?  
 7 A Yes.  
 8 Q Did you express it with anybody else?  
 9 A Mr. Roland.  
 10 Q On Page 2 of this letter -- memo, you say,  
 11 "It is unclear at this time that if your decision to  
 12 recommend that I be placed in the PIP program, which  
 13 targets employees for termination, is for low PE  
 14 scores, for allegedly mislocating files or both."  
 15 Were you advised, at that time, that you would be  
 16 placed in a PIP program?  
 17 A I think so.  
 18 Q In an improvement plan?  
 19 A Yes.  
 20 Q And you were told that that was what,  
 21 because of what?  
 22 A Low PE scores.  
 23 Q And on Page 3, if you could turn one more  
 24 page, you state regarding the position of being in a

1 PIP program, that you would enter a second request  
 2 to return to the General Records Section; did they  
 3 think that you were asking that you'd go back to  
 4 General Records?  
 5 A Yes.  
 6 Q Do you recall meeting around that time  
 7 with Mr. Roland, and Mr. Roland, by the way, at the  
 8 time, 2003, would he be the Director of the Records  
 9 Center?  
 10 A Yes.  
 11 Q Do you remember meeting with him to  
 12 discuss any relating issues?  
 13 A I don't think so.  
 14 Q Did Mr. Roland speak to you at that time  
 15 about your use of the phrase in the workplace,  
 16 "going postal"?  
 17 A Not at that time.  
 18 Q When, if ever, did he?  
 19 A Summer of 2003.  
 20 Q Okay. Had you used that phrase, "going  
 21 postal" in the workplace?  
 22 A No.  
 23 Q How did Mr. Roland come to believe that  
 24 you had used it?

1 A I had a falling out with Mitchell Buffone,  
 2 and I had wrote him a letter terminating our  
 3 friendship, and in it, you know, I said I understand  
 4 why and how people go postal in the workplace, but I  
 5 never voiced it to anyone.  
 6 Q When did you write that letter to  
 7 Mr. Buffone?  
 8 A Maybe February or March.  
 9 Q 2003?  
 10 A 2003.  
 11 Q You said that you had a falling out with  
 12 him, what was that about?  
 13 A Mr. Buffone is not a very trustworthy  
 14 person. He is capable of betrayal at the times that  
 15 you wouldn't expect him to be, and I felt as though  
 16 I had been trying to support him in being a work  
 17 coordinator, and looking out for his interest, and I  
 18 thought that he would do the same for me, and that I  
 19 found out that was not to be the case.  
 20 Q In what ways did it turn out not to be the  
 21 case?  
 22 A I had gotten Mr. Roland to help give a  
 23 friend of mine a temporary job for a couple of  
 24 weeks, and Mr. Buffone was instrumental in dropping

1 her from her employment, and I just thought that he  
 2 could have gave me a heads-up, a warning, saying,  
 3 you know, well, work is coming to a shortage now, we  
 4 are going to be letting your friend and other people  
 5 go, and he just did it without not even a day's  
 6 notice.  
 7 Q You were upset with him?  
 8 A Oh, yeah.  
 9 Q Did your relationship with Mr. Buffone  
 10 change permanently after that?  
 11 A Yes.  
 12 Q Did it ever get better again?  
 13 A No.  
 14 Q In what ways -- well I will come back to  
 15 that.  
 16 Did Mr. Roland, when you met with him  
 17 in 2003, around April of 2003, did he advise you not  
 18 to petition other employees in forming cliques or  
 19 alliances?  
 20 A Not to petition, no.  
 21 Q Not to encourage them to form cliques or  
 22 alliances?  
 23 A No.  
 24 Q Were you responsible for forming any sort

1 of clique or alliance at the Federal Records Center?  
 2 A No.  
 3 Q Did Mr. Roland ask you not to issue long  
 4 type written, what we call, manifestos?  
 5 A I don't remember.  
 6 Q You don't remember that?  
 7 A No.  
 8 Q I am going to have marked, now, as  
 9 Murray-8.  
 10 (Whereupon, a document was  
 11 marked for identification as  
 12 Exhibit Murray-8.)  
 13 BY MR. SULLIVAN:  
 14 Q Which is styled a memo from you to David  
 15 Roland when he was in the position of assistant  
 16 regional administrator, dated May 12th, 2003; if you  
 17 could take a look, this is a cover document for a  
 18 set of documents.  
 19 A I recognize this document.  
 20 Q Okay. The second paragraph says, "My  
 21 current annual PE is 88, minimally successful. I  
 22 need to be reassigned, as soon as possible, to  
 23 receive a wage grade increase." Is that correct  
 24 that you had been graded minimally successful with a

1 PE of 88 around that time?  
 2 A That's correct.  
 3 Q And is the reassignment that you are  
 4 requesting the one that you already referred to?  
 5 A Yes.  
 6 Q And Mr. Roland writes at the bottom,  
 7 Darryl, my decision is attached; is that correct?  
 8 A Yes, that's correct.  
 9 Q And then I am going to turn to the 4th  
 10 page of the 6 or 7 pages that I handed to you, it  
 11 says, Disposition of Reasonable Accommodation  
 12 Request; did you understand that you made a  
 13 reasonable accommodation request?  
 14 A Yes.  
 15 Q And who had you sent that to?  
 16 A I think I was directed to give it to David  
 17 Roland.  
 18 Q And it states here that your reasonable  
 19 accommodation request was to return to your former  
 20 position in the General Records Section; correct?  
 21 A Correct.  
 22 Q And that was being denied?  
 23 A Yes.  
 24 Q And on the next page, there are reasons

1 given for the denial?  
 2 A Yes.  
 3 Q And it states that the physical  
 4 requirements for your former duties in the General  
 5 Records Section, and your current duties in the  
 6 Trust Fund are the same, moreover, the performing  
 7 standards are the same, therefore, if you are having  
 8 difficulty performing duties in the Trust Fund  
 9 Section, you would have equal difficulties doing so  
 10 in your former assignments in the General Records  
 11 Section; did you discuss this petition with Mr.  
 12 Roland?  
 13 A No.  
 14 Q Did you understand that he was saying that  
 15 there wasn't a significant physical difference  
 16 between to two jobs?  
 17 A Yes.  
 18 Q Did you ever challenge that further?  
 19 A No.  
 20 Q And the last document that I am going to  
 21 show you relating to these topics, I am going to  
 22 have marked as Murray-9.  
 23 (Whereupon, a document was  
 24 marked for identification as

1 Exhibit Murray-9.)  
 2 BY MR. SULLIVAN:  
 3 Q If you could take a look at this, this is  
 4 a July 21st, 2003 notice regarding your performance  
 5 during the appraisal period, October 1st, 2002 until  
 6 June 28th, 2003, sent to you by Elizabeth  
 7 Washington.  
 8 A Yes, I recognize this one.  
 9 Q It says that your performance during that  
 10 period of time was not at an acceptable level of  
 11 competence. Therefore, your within-grade increase  
 12 would not be granted, your overall rating is  
 13 minimally satisfactory, your PE score was  
 14 87 percent; do you recall receiving this?  
 15 A Yes.  
 16 Q And do you remember being told that you  
 17 were at a minimal acceptable level --  
 18 A Yes.  
 19 Q -- minimally satisfactory level during  
 20 this period?  
 21 A Yes.  
 22 Q Under Actions Necessary for Improvement on  
 23 Page 1, it says, "Rather than following agency  
 24 procedures, you sometimes make your own procedures

1 which sometimes do not work out. You also sometimes  
2 work in a scattered manner, rather than working more  
3 methodically by stack area." Did Ms. Washington  
4 discuss with you that criticism?

5 A Yes.

6 Q Did you have a response?

7 A Didn't totally agree with it, but I  
8 understood what she meant. She was saying, we have  
9 our building warehouse, it is divided up into  
10 sections A, B, C, D, E, F, G, and instead of going  
11 A, B, C, D, E, F, G, sometimes I would start in an  
12 area that was less crowded, or where the work was  
13 easier, and she might have thought that that had  
14 something to do with being minimally satisfactory.

15 Q Did you ever go above minimally  
16 satisfactory after that point before you departed?

17 A Yes.

18 Q Did you ever get an within-grade increase  
19 before you left?

20 A Yes.

21 Q How many times?

22 A Once.

23 Q When was this?

24 A June 2004.

1 Q Mr. Murray, going back to our discussion  
2 about cliques, you've referred to a clique involving  
3 Mr. Mitchell Buffone?

4 A Yes.

5 Q Who else was in that clique?

6 A Mitchell Buffone, Pat Davis, Dwayne  
7 Dixon, Darnel Tate and one or two people that had  
8 one foot in and one foot out.

9 Q Who were they?

10 A That would be Reather Dawson and just  
11 about anybody who needed them to get a promotion.  
12 mean, since they never did anything to me, or never  
13 did anything to anybody that I know of, I don't feel  
14 comfortable, you know, putting them in something, or  
15 calling their name.

16 Q And Mr -- and I don't know if the  
17 pronunciation is right, Hong Diep, H-O-N-G D-I-E-P,  
18 was he in that clique?

19 A No.

20 Q In a memo that you submitted to the judge  
21 a few months ago, Judge Shapiro, you stated that you  
22 had a falling out with Buffone, and you called him a  
23 worthless loser, and Mr. Buffone retaliated with a  
24 secret campaign of harassment by vandalizing your

1 desk and personal property for over a year; is that  
2 what you referred to before, the falling out?

3 A No. That worthless loser stuff started  
4 coming about when personal items started  
5 disappearing off my desk, my cart; someone had  
6 slapped some spaghetti sauce or pasta sauce or  
7 something on the side of my car, and I didn't know  
8 who it was, but I knew that he was responsible for  
9 it, but I don't know who actually did it, but I  
10 think he did it.

11 Q When did that start?

12 A Shortly after I wrote him the letter  
13 terminating our friendship, and that would be 2003.

14 Q Okay, and your letter to the judge, your  
15 memo to the judge, you referred to August 2003; does  
16 that seem right?

17 A Yes.

18 Q Okay. What issues did you have with  
19 Vernel Tate?

20 A Poor Mrs. Tate was overage and over sexed;  
21 middle aged woman who was attracted to me, and I  
22 think that she thought because I had a good  
23 friendship with all the female employees, that we  
24 must have been having sex because we were so

1 friendly, and she used to talk like, she wanted a  
2 piece of the action or something.

3 I don't know what her problem was.

4 She was just constantly harassing and complaining  
5 about me not showing her and the clique enough  
6 respect, or -- and if anybody had anything negative  
7 to say about me, she would try to hype it up and  
8 boost it. She was just a nuisance, plainly.

9 Q In your EEOC statement from November  
10 18th, 2004 you state, I filed a complaint of sexual  
11 harassment against Miss Tate; did you, in fact, file  
12 a complaint of sexual harassment?

13 A I filed a complaint with the director; I  
14 didn't go through with it to the EEOC.

15 Q And what were you alleging?

16 A She was harassing me.

17 Q In what way.

18 A Verbal, sexual advances.

19 Q I am going to come back to some of your  
20 issues with the clique that you referred to in a  
21 moment; what religious items, symbols, messages did  
22 you see posted at the Records Center on Townsend  
23 Road during your time there?

24 A On some employees screen savers on their

Page 50

1 computers, Christian crosses, Jewish Menorah  
 2 symbols, and then the same with -- on prayers, on  
 3 pieces of paper with prayers, like posting it on the  
 4 back of their desk or on their desk, and that is  
 5 about it.  
 6 Q Anything else?  
 7 A Not that was religious. So it might be  
 8 something political or something. Sometimes people  
 9 get religious and politics mixed up, so...  
 10 Q Can you give me an example where religion  
 11 and politics were mixed up?  
 12 A Probably with a magazine that someone was  
 13 reading with the Holocaust and the swastika or  
 14 something, that is about it.  
 15 Q Who was reading it?  
 16 A It was just on the desk, I don't know who  
 17 it belonged to, or if somebody was sharing it with  
 18 somebody.  
 19 Q What was it saying, the magazine, about  
 20 the Holocaust?  
 21 A It just had a picture of a swastika and  
 22 the word, Holocaust on top.  
 23 Q Do you know what the article or subject  
 24 matter was?

Page 51

1 A No, I wouldn't touch anyone's property.  
 2 Q You don't recall whose it was?  
 3 A No.  
 4 Q Apart from that, anything else you recall  
 5 seeing?  
 6 A No.  
 7 Q So you have told me every type of  
 8 religious items, symbols, messages that you recall  
 9 during your time at the Records Center on Townsend  
 10 Road?  
 11 A Except for prayers out of the Bible, that  
 12 was it.  
 13 Q How about while you were at the Records  
 14 Center on Wissahickon Avenue, anything beyond what  
 15 you just described?  
 16 A No.  
 17 Q Did you ever have a Koran in your work  
 18 station, or anywhere at the Records Center?  
 19 A At Townsend Road facility.  
 20 Q You did?  
 21 A Yes.  
 22 Q Did anybody ever ask you to remove that,  
 23 or put it somewhere?  
 24 A No.

Page 52

1 Q Did you ever have any prayers, or anything  
 2 similar to a prayer posted at your work station, or  
 3 anywhere at the work facility?  
 4 A No.  
 5 Q Did anybody ever tell you that you were  
 6 not to have a Koran or prayer at your work station?  
 7 A I think that when I made the agreement, I  
 8 probably shouldn't have brought it in because that  
 9 would be considered religious materials.  
 10 Q But you did bring a Koran in?  
 11 A Yeah, I kept it in my desk.  
 12 Q And you were never told to remove it?  
 13 A No.  
 14 Q In his November 2004 letter to you,  
 15 Mr. Roland wrote that, you were suspended for three  
 16 days in August 2003 for neglecting duty and  
 17 inaccurately completing work and -- just one second.  
 18 He stated that you are suspended for  
 19 three days in August 2003 for neglected duty and  
 20 inaccurately reporting completed work and  
 21 carelessness; do you remember that, is that the Odum  
 22 (phonetic) file?  
 23 A Yes.  
 24 Q Okay. Can you tell me a little bit about

Page 53

1 that?  
 2 A I don't remember the exact date, but I had  
 3 pulled about 100 request for files that day.  
 4 Q Were they bankruptcy files?  
 5 A Yes.  
 6 Q Okay.  
 7 A And hers was about, maybe, somewhere  
 8 between 95 and 100 that I pulled.  
 9 Q Now hers, being Ms. Odum's?  
 10 A Ms. Odum.  
 11 Q And Ms. Odum was, who?  
 12 A A customer. A public customer.  
 13 Q Okay.  
 14 A I remember pulling the file out of the  
 15 box, putting the chart out slip in the box, putting  
 16 the file on my cart, and then going onto the next  
 17 one, going onto the next request. I remember taking  
 18 the files back to the service area where they are  
 19 supposed to be checked in, and Dwayne Wilkerson was  
 20 responsible from checking them in, and he did not  
 21 come into work that day, so they were left  
 22 overnight, unguarded and unchecked in, and sometime  
 23 later, I guess we discovered that her file was  
 24 missing. She indicated, I guess, she called in,

14 (Pages 50 to 53)

1 whatever.

2 Q Do you remember if there was any urgency  
3 in getting the file copied?

4 A It wasn't noted on the actual request  
5 slip, but usually they wanted it within a couple  
6 days, if they can get it.

7 Q Did you have any role to play in the file  
8 being missing?

9 A No, I don't think so.

10 Q You are not sure?

11 A I am 100 percent sure; I've never lost a  
12 file in 17 years.

13 Q You never lost any files?

14 A No.

15 Q So what happened next?

16 A I think my supervisor notified me that it  
17 was missing, and she assigned Dwayne Wilkerson to  
18 try to see if he could find it, you know, he would  
19 help me to look for it, and we searched the entire  
20 stack area from where it was pulled. I couldn't  
21 find it, Dwayne Wilkerson couldn't find it, and I  
22 think the supervisor notified the customer that we  
23 couldn't, and then the customer called back and  
24 asked to speak to somebody higher, and I think she

1 ended up on the phone with John McEvoy, and that is  
2 how he ended up getting involved in it. I don't  
3 know how he got involved in it, he was the  
4 supervisor on the loading dock at the time.

5 Q Did the file end up being found?

6 A Yes, it did.

7 Q Who found it?

8 A Vernel Tate.

9 Q Where did she find it?

10 A She told me that it was stuffed in the  
11 back of the box that I had serviced subsequent to  
12 the Tasha Odum box that I had. When I left that  
13 Tasha Odum's box, I went to another box that I  
14 pulled a file out, and she said that she found it in  
15 there, stuffed in the back.

16 Q Is that possible?

17 A Impossible.

18 Q Why is it impossible?

19 A Impossible because I was pulling boxes --  
20 putting boxes -- pulling folders out of boxes, it  
21 could have been possible if I had been doing re  
22 files and putting two folders back in by accident,  
23 they could have been stuck together, but since I was  
24 taking them out, and once I was taking them out, I

1 would stack them in the cart, it doesn't make sense  
2 to have something like this (indicating) to --

3 Q Now, that is not showing up on the  
4 transcript, so make sure that if you want something  
5 described, you say it in words.

6 A It is not likely that a folder as thick as  
7 one or two of these (indicating), that are heavier,  
8 to another location and then sit it in the back of a  
9 box. It is also kind of difficult to see that  
10 because all of this folders in a given box, they are  
11 usually the same color, and the folders were of a  
12 different color.

13 Q So you are saying that Ms. Tate lied?

14 A Yes.

15 Q Why would she lie about that?

16 A I think right around that time she was  
17 trying to question me about my relationship with  
18 Mr. Buffone, and I -- my sixth sense just told me  
19 that she is up to something, she was trying to get  
20 something started, or she was about to -- let's be  
21 engaged in some kind of devilish behavior. And I  
22 know from experience working there from other  
23 employees who had similar incidents, they just  
24 resigned or quit because they knew that they didn't

1 lose any work, or something like that, so I know  
2 that I had become a victim of that same kind of  
3 behavior.

4 Q Did you ever raise that with management;  
5 did you bring that to the attention of management,  
6 your view of that?

7 A I mentioned it to Miss Washington, but  
8 without evidence, proof and the general hostile and  
9 racial organization it would receive, it wouldn't do  
10 any good.

11 Q After that occurred in August 2003, was  
12 there any greater tension between -- among you and  
13 any other members of the clique?

14 A No, I generally tried to avoid them all as  
15 much as I could.

16 Yes, there was something.

17 Q And what was that?

18 A Dwayne Wilkerson had made several  
19 complaints to Ms. Washington that my work habits  
20 were sloppy or something, or that I was messy, and I  
21 was in the file area.

22 Q Did you and he discuss that?

23 A She called me into the office, and he was  
24 talking to her, and he had told her that he wasn't

1 going to say anything else to her, he was just going  
2 to forget about the whole incident and leave it  
3 alone, and that is just what he did, he never made  
4 any more complaints after that.

5 Q Did you and Mr. Buffone and Ms. Tate and  
6 Mr. Wilkerson, anybody in that clique, have any  
7 conversations between when these incidents happened  
8 in August 2003, and when you left in 2004, that  
9 involved any kind of threats or challenges?

10 A No. No.

11 Q In your EEO statement from February  
12 2nd, 2005, you state that, approximately, four or  
13 five months prior to my placement on administrative  
14 leave, so that would be -- you are talking about the  
15 beginning of, maybe, 2004, I experience a number of  
16 thefts and personal documents beginning to disappear  
17 from the top of my desk and from a locked cabinet  
18 section of my desk. Someone started placing my  
19 personal documents under the office door of my  
20 supervisor, Ms. Washington, et cetera, et cetera.  
21 What happened, and when did it happen?

22 A I spend a lot of hours every day on the  
23 Internet researching materials and printing them  
24 out.

1 Q While at work?

2 A While at work, on my lunch break, and 15  
3 minute break, or after work, and I make scratch  
4 notes in the margin of different paper, and when I  
5 come to work on Monday, my supervisor would have  
6 them sitting in the chair and she wouldn't know if I  
7 lost them, or what. Just couldn't make any sense --  
8 someone to keep sliding them under her door, and --

9 Q Had she told you that somebody had been  
10 putting them under her door?

11 A Yes. And it wasn't anything -- we  
12 couldn't understand why somebody would do it, and  
13 then when it finally happened again, she just took  
14 them into Assistant Director Dan Bedesen's office.

15 Q B-E-D-E-S-E-N?

16 A S-E-N.

17 And then he called me in to ask me  
18 about it, and I told him, stuff keeps disappearing  
19 off my desk. And he asked me if I wanted these  
20 papers that Ms. Washington brought to him, and I  
21 said, no, at this point, I want to take a note off  
22 of it, and he discarded them in the trash, and he  
23 told me to try to lock up everything on my desk or  
24 clear it out at the end of the day, you know, so to

1 prevent it from happening.

2 Q Were the things that were placed under her  
3 door of a certain subject matter?

4 A Nothing particular, just Web site  
5 addresses, or Web type linkages.

6 Q The thefts that you are referring to, were  
7 they just of those documents that were placed under  
8 the door, or were there additional thefts?

9 A Additional thefts.

10 Q What types of theft?

11 A My tooth brush, a bar of soap, deodorant,  
12 sometimes office supplies, that's all.

13 Q Did you have any suspicion as to who was  
14 putting the documents under Ms. Washington's door?

15 A Mr. Buffone was a suspect.

16 Q You suspected him?

17 A Yes.

18 Q Did you ever confront him about that?

19 A No.

20 Q Did you ever have anything that verified  
21 that it was he who was doing it?

22 A No.

23 Q Regarding the theft of your tooth brush,  
24 soap, deodorant, the other things that you

1 mentioned, did you ever suspect anybody was  
2 responsible for that?

3 A Kind of thought he did too, Buffone did  
4 it, too.

5 Q Buffone?

6 A Yes.

7 Q Did you ever confront him about that?

8 A No, I didn't have any proof.

9 Q Did you ever come across anything that, in  
10 your mind, verified that it was he, that was  
11 responsible?

12 A There is one incident where I was in one  
13 stack, and my cart was in another, and he was  
14 standing not too far from it, and he was -- it looked  
15 like, from a distance that he was talking to someone  
16 who was up in an aisle, but you couldn't see a  
17 person standing in the aisle, and as I approached my  
18 cart, he walked away, and I noticed -- looked all  
19 the way down at the other end of the aisle, I seen  
20 Dwayne Wilkerson leaving out the other end, but --  
21 if I don't catch your hand on something, I am not  
22 going to accuse you of doing something.

23 Q When did the paper under the door  
24 incidents begin, when did they end?

Page 62

1 A I really don't know.  
 2 Q Was it after August of 2003?  
 3 A Yes.  
 4 Q Did the theft of your tooth brush, soap  
 5 happen around the same time?  
 6 A Yeah, over a period of about six months  
 7 this stuff happened.  
 8 Q Beginning, when?  
 9 A Say, six months prior to the three-day  
 10 suspension that I got, so count back.  
 11 Q So, six months prior to --  
 12 A August the 3rd.  
 13 Q So, around March 2004, do you think?  
 14 A Yes.  
 15 Q In your November 18th, 2004 EEO statement,  
 16 Page 8, you state, Mr. Buffone complained to Mr.  
 17 Dave Roland that he feared for his life around me.  
 18 Shortly after this incident, I began having  
 19 problems, personal items of mine started  
 20 disappearing, somebody started dumping trash on top  
 21 of my desk every other day, and over the weekend  
 22 when the clique was working on Saturday, and I just  
 23 laughed. Is this comment and complaint that Mr.  
 24 Buffone made to Mr. Roland something different from

Page 63

1 what you had already talked about?  
 2 A No, this would be when I wrote him the  
 3 letter dissolving our friendship, he gave it to, I  
 4 think, the regional administrator first, and then  
 5 she gave it to Roland, but there wasn't any threats  
 6 made, but I guess she assumed that I was threatening  
 7 him, but there wasn't any threats for him to do  
 8 that. I assume that he must have thought that I was  
 9 going to hurt him or something.  
 10 Q That was back in 2003?  
 11 A Yes. Yes.  
 12 Q So you are saying shortly after that, you  
 13 started having items missing, trash underneath your  
 14 desk, is that in 2003 when those items were  
 15 disappearing, when the trash was on your desk, or  
 16 was that in 2004?  
 17 A The trash, I think, was more in 2003, and  
 18 maybe the end of 2003, beginning of 2004 was when  
 19 the items started missing.  
 20 Q The items missing, are they the ones that  
 21 you were referring to before?  
 22 A Yes.  
 23 Q The trash, did you suspect anybody of  
 24 putting the trash on your desk?

Page 64

1 A I suspected Mr. Buffone and Dwayne  
 2 Wilkerson.  
 3 Q Did you ever see them do that?  
 4 A No.  
 5 Q Did you ever confront them, or did you  
 6 ever have anything that verified that for you?  
 7 A No, I just know their personalities, and I  
 8 know that what they were capable of doing. Anything  
 9 childish, you can bet money on it, it would be them.  
 10 Q So the trash that was on your desk, you  
 11 think, late 2003, early 2004, or did it continue  
 12 into 2004?  
 13 A I think it continued.  
 14 Q When was the last time Buffone put trash  
 15 on your desk in a way that you think was  
 16 intentional?  
 17 A Um -- maybe -- maybe three or four months  
 18 before August 2003.  
 19 Q Okay. In your EEO Affidavit, and I will  
 20 pull it out at some point -- when I am making a  
 21 reference to one of these documents and you want to  
 22 actually take a look at it, just let me know, if  
 23 anything that I am saying you think isn't consistent  
 24 with what you recall, but just to move things along,

Page 65

1 I will refer to it this way. In your EEOC Affidavit  
 2 on Pages 2 and 3, you state that in the weeks before  
 3 August 17th, 2004, you had quote, "Posted things  
 4 while things were going on. The first thing I  
 5 thought was a problem, that somebody had put pasta  
 6 on my new white car, that happened quite awhile ago.  
 7 There was, subsequently, an incident where somebody  
 8 took a key and put a big scratch on my new car. I  
 9 thought, at the time, that was just practical jokers  
 10 just trying to provoke me to violence or  
 11 misconduct." When you referred to the pasta issue  
 12 before, your EEO Affidavit seems to suggest that  
 13 this was something that happened right before you  
 14 put up your August 2004 postings; is that right?  
 15 A What happened just before I put the  
 16 postings up, or the reason why I would pull them up,  
 17 it really had come to a head when someone had  
 18 scratched my car.  
 19 Q So that happened before the pasta, the  
 20 scratch?  
 21 A The pasta happened before the scratch.  
 22 Q Do you remember when the pasta incident  
 23 happened?  
 24 A End of 2002, beginning of 2004.

17 (Pages 62 to 65)

Page 66

1 Q So quite awhile before --  
 2 A Yeah. Yes.  
 3 Q Where was your car at the time when the  
 4 pasta was placed on it?  
 5 A In the parking lot near the loading dock  
 6 doors, open doors.  
 7 Q Parking lot at Townsend Road?  
 8 A Townsend Road.  
 9 Q And what was done -- where was the pasta  
 10 placed?  
 11 A On the -- by -- just around the rear  
 12 window on the driver's side.  
 13 Q Did you witness anybody placing it there?  
 14 A No.  
 15 Q When did you discover what happened, what  
 16 time of day?  
 17 A I know when I came out to go to lunch,  
 18 which tells me someone did it before lunch, or  
 19 either when the food truck came, at quarter of nine  
 20 in the morning.  
 21 Q Did you suspect anybody of doing it?  
 22 A I couldn't understand that at all. I  
 23 don't understand why anybody would do something like  
 24 that, so...

Page 67

1 Q It was before your falling out with  
 2 Mr. Buffone?  
 3 A Yes.  
 4 Q So you didn't know who had done it?  
 5 A No.  
 6 Q Did you ever confront anybody about it?  
 7 A No.  
 8 Q The scratch of your car happened after  
 9 that?  
 10 A Yes.  
 11 Q When did that happen?  
 12 A The scratch happened September 2004.  
 13 Q Are you sure it was September?  
 14 A August or September.  
 15 Q Is it possible that it was before you put  
 16 up your August posting?  
 17 A I think the worthless loser one was about  
 18 the items missing and the trash, and --  
 19 Q But we will go back to the posting -- we  
 20 will go through the postings, and if it comes back  
 21 to you, let me know, but you are not absolutely sure  
 22 when the scratches were, but you believe they were  
 23 in the late 2004, middle to late 2004?  
 24 A It was September of 2004.

Page 68

1 Q Okay. Where was the scratch on your car?  
 2 A On the -- just below the grill.  
 3 Q The grill, being?  
 4 A The front grill where the emblem usually  
 5 is.  
 6 Q How big was the scratch, how long?  
 7 A About 2 inches.  
 8 Q When did you first see the scratch, and  
 9 where were you when you first saw it; where was the  
 10 car?  
 11 A The car was in the parking lot, and when I  
 12 came out at the end of the day, at 2:30, I saw it.  
 13 Q Did you see anybody scratch your car?  
 14 A No.  
 15 Q Did anybody else report to you that had  
 16 seen anybody scratch your car?  
 17 A No.  
 18 Q Did you have any suspicions about who had  
 19 done it, or did anybody report to you suspicions who  
 20 had done it?  
 21 A I -- they thought, maybe -- that I thought  
 22 might have been, maybe, Hong Diep.  
 23 Q H-O-N-G D-I-E-P?  
 24 A Yes.

Page 69

1 Q Why did you think Hong Diep?  
 2 A Again, I am trying to take childish  
 3 actions and assign it to people's personality. What  
 4 a person is capable of doing, and it just would fit  
 5 with him, but I can't offer any evidence.  
 6 Q I am going to come back to Mr. Diep and  
 7 your issues with him shortly, and we may have to  
 8 take a break in a few minutes so you could go put  
 9 the money in the meter.  
 10 Did you ever confront Mr. Diep, or  
 11 anybody about that scratch?  
 12 A No.  
 13 Q Did you ever complain to management about  
 14 the trash on your desk?  
 15 A No.  
 16 Q Did you ever complain to management about  
 17 the pasta on your car, or the scratch on your car?  
 18 A No, I thought that I had mentioned it to  
 19 Liz. I thought that I told a couple of coworkers,  
 20 but I never took it to upper management. Beyond  
 21 that, just to Liz, she is a friend.  
 22 Q You told her just as a friend?  
 23 A Well, because she is a friend.  
 24 Q Did you ever mention the personal items

18 (Pages 66 to 69)

Page 70  
1 that you believed had been stolen, your tooth brush,  
2 your soap, things like that, did you ever mention  
3 any of those thefts to management?

4 A I think in passing, I think I told Liz; I  
5 didn't make a great big issue out of it, the way  
6 they would, the way the clique would, it was just,  
7 there is some worthless nothing behind people in  
8 here, it was what I was thinking, so it wasn't like  
9 a large complaint or, you know --

10 Q Why did you not make a more formal  
11 complaint about this, the theft and putting trash on  
12 your desk, and the abuse of your car that you  
13 alleged?

14 A I didn't know who did it, and the way that  
15 management felt about me, it wouldn't make a  
16 difference; they would be indifferent about it. And  
17 not having any evidence, there is nothing anybody  
18 could do so-- it wasn't like the end of the world,  
19 it was just being a nuisance, so I just tried to be  
20 as mature as possible about it.

21 (Whereupon, a document was  
22 marked for identification as  
23 Exhibit Murray-10.)

24 BY MR. SULLIVAN:

1 facility on Townsend Road?

2 A Yes. Somebody would drop something on  
3 managements head or something, just, you know,  
4 cartoons, kind of, veiled incidents, comments.

5 Q Did you ever say what should be dropped on  
6 management's head?

7 A Boxes or something like that.

8 Q And that was because you were concerned  
9 about, what?

10 A Just the way management seems to let the  
11 clique get away with anything. Whatever the clique  
12 wants to do with the lower grade employees,  
13 management will just -- they accept anything that  
14 the clique says as heart, facts or evidence, and it  
15 was just expressing that, just discontent with it.

16 Q Did you ever make any other, what you  
17 referred to as veil comment or threat in  
18 Mr. Hughes's presence regarding any of that?

19 A No. No.

20 Q That is all you remember?

21 A That is all I can remember now.

22 Q Okay, you may have said some other things  
23 and you don't recall?

24 A Yes.

Page 71  
1 Q I had this marked Murray-10, in the memo  
2 that you sent to Shawn Walker, S-H-A-W-N  
3 W-A-L-K-E-R, on November 17th, 2004, the EEO  
4 proceeding.

5 Mr. Murray, is this your handwriting  
6 on this document?

7 A Yes.

8 Q And this is the statement that you  
9 submitted to Mr. Walker in the EEO proceeding; is  
10 that correct?

11 A Yes, that is correct.

12 Q On Page 1, looks like the 3rd paragraph,  
13 it says, "I know that I have made several veiled  
14 comments or threats about wishing someone do  
15 something drastic to force management to change the  
16 injustices and inequality meted out to the lower  
17 grade GS-3 employees and the clique who brown-nose  
18 management daily." What veiled comments or threats  
19 did you make?

20 A A couple times, just in talking to James  
21 --

22 Q James Hughes?

23 A Yeah.

24 Q And he was the security officer at the

1 Q This is a good time for you to put money  
2 in the meter, it looks like it is about 12:35; is  
3 that agreeable?

4 A Yes.

5 (Whereupon, a brief recess was  
6 taken.)

7 (Whereupon, a document was  
8 marked for identification as  
9 Exhibit Murray-14.)

10 MR. SULLIVAN: We are back on the record  
11 about 1:00 p.m., Mr. Murray had to put some  
12 money in his meter about 25 minutes ago.

13 He has just informed me that he received a  
14 phone call from home about a medical emergency  
15 and doesn't believe that he is going to be able  
16 to continue today, after, approximately, 2:15  
17 p.m., and I asked him shortly before then to  
18 call home again just to make sure he is needed,  
19 and -- why don't we go off the record for a  
20 second.

21 (Whereupon, a brief discussion  
22 was held off the record.)

23 MR. SULLIVAN: All right, so if that is  
24 necessary, when we get close to 2:15, we will

| Page 74   | Page 76  |
|---|--|
| <p>1 come up with another date.<br/> 2 (Whereupon, a document was<br/> 3 marked for identification as<br/> 4 Exhibit Murray-12.)<br/> 5 BY MR. SULLIVAN:<br/> 6 Q Mr. Murray, I want to turn now to August<br/> 7 of 2004, and I am going to start by showing you what<br/> 8 I have had marked as Murray-12, it is a series of<br/> 9 colored photographs, and if you could just page<br/> 10 through them quickly, there are seven pages of<br/> 11 photographs.<br/> 12 Are these photographs of your<br/> 13 work station in August of 2004?<br/> 14 A Yes.<br/> 15 Q On or before August 17th, 2004, before you<br/> 16 were asked to remove postings?<br/> 17 A Yes.<br/> 18 Q And are these photographs of anything that<br/> 19 you had posted at your work station at the National<br/> 20 Archives on Townsend Road?<br/> 21 A Yes.<br/> 22 Q I would like to start with the first page<br/> 23 and I am going read that together with the second<br/> 24 page, because some of the statements begin on the</p> | <p>1 Q And did you put those pictures up, the<br/> 2 movie and Mr. Farrakhan, the posting?<br/> 3 A Yes.<br/> 4 Q Okay, when did you post these comments and<br/> 5 these photographs?<br/> 6 A I think shortly after the movie came out,<br/> 7 my coworkers and I was discussing it at my desk at<br/> 8 lunch one day, and at that time, I hadn't yet seen<br/> 9 the movie, so it had to be after the movie came out.<br/> 10 Q The movie being, Fahrenheit 9/11?<br/> 11 A Correct.<br/> 12 Q Did you post these before August 2004?<br/> 13 A (No response.)<br/> 14 Q Let me ask it to you this way, how long<br/> 15 had they been up by the time that you were asked to<br/> 16 remove them?<br/> 17 A Two weeks.<br/> 18 Q Not a month?<br/> 19 A I don't thing so. Couple of weeks.<br/> 20 Couple of weeks.<br/> 21 Q Why did you post these particular sayings?<br/> 22 A Well, after I did see Fahrenheit 9/11, I<br/> 23 had got the impression that the movie was trying to<br/> 24 say that he didn't do it, and I was just discussing</p>        |
| Page 75   | Page 77  |
| <p>1 second page and carry over to the first page. Am I<br/> 2 correct that at the top, on the left side, it says,<br/> 3 "Osama did not do it, or didn't do it"?<br/> 4 A Yes.<br/> 5 Q And under that is a picture from the<br/> 6 Michael Moore film, Fahrenheit 9/11?<br/> 7 A Yes.<br/> 8 Q And below that is the statement, Allahu<br/> 9 Akbar, A-L-L-A-H-U A-K-B-A-R?<br/> 10 A Yes.<br/> 11 Q And on the right side, at the top in red<br/> 12 is, "Who are the real terrorist", singular, question<br/> 13 mark; correct?<br/> 14 A Correct.<br/> 15 Q And below that, "Guidance in a time of<br/> 16 trouble to America and the world" a picture of Louis<br/> 17 Farrakhan, and his name below that; is that correct?<br/> 18 A That's correct.<br/> 19 Q And below that, "Osama totally exonerated<br/> 20 an innocent man"?<br/> 21 A Correct.<br/> 22 Q Did you write the handwritten statements<br/> 23 here?<br/> 24 A Yes.</p>  | <p>1 that amongst my coworkers.<br/> 2 Q So these were aimed at your coworkers,<br/> 3 these comments?<br/> 4 A Yes.<br/> 5 Q What does Allahu-Akbar mean?<br/> 6 A God is great.<br/> 7 Q And why did you post that statement there?<br/> 8 A Because I thought that Michael Moore was<br/> 9 showing that Osama bin Laden was just a scapegoat.<br/> 10 Q Did you subscribe to that belief at the<br/> 11 time that you made these postings?<br/> 12 A Yes.<br/> 13 Q And did you subscribe to the belief that<br/> 14 Osama bin Laden was an innocent man as stated on the<br/> 15 postings?<br/> 16 A That's what the movie was trying to say.<br/> 17 Q At the time that you posted these<br/> 18 comments, did you believe that they were allowed<br/> 19 under the agreement that you had reached with<br/> 20 management in 1996?<br/> 21 A I didn't see anything threatening or<br/> 22 offensive -- that they, basically, don't bring<br/> 23 anything in here that's threatening or racial or<br/> 24 religious, what do they call it, overtones or</p> |

20 (Pages 74 to 77)

1 things, but this was just about a movie.

2 Q Let me just show you briefly, Murray-15.

3 (Whereupon, a document was

4 marked for identification as

5 Exhibit Murray-15.)

6 BY MR. SULLIVAN:

7 Q Take a look at this, this appears to be a

8 statement from the EEO proceeding that you gave to

9 Joyce Savage, the EEO Counselor, where you referred

10 to her as an EEO Counselor, and on Page 1 it is

11 dated February 8th, 2005, about the fourth paragraph

12 down you say, "I do believe that it might have been

13 inappropriate to display anything promoting Osama

14 bin Laden's innocence where patriotic Caucasian

15 Americans might interpret the wrong way. I believe

16 that the document -- the documentary was attempting

17 to exonerate Osama and reflect Islam in a more

18 positive way." Is it your belief that this posting

19 was inappropriate?

20 A I think, after reading Affidavits by

21 management, collected by EEOC, I think they believe

22 that he did it, and I was trying to not agree with

23 the official news version and president, and they

24 would get offended. And I thought that they would

1 ask me, I would just say it was what the movie was

2 trying to reflect -- I didn't, you know, afterwards,

3 then I said, well, some people believe everything

4 that you see on the news and every word that comes

5 out of the president's mouth. Those people could

6 possibly be offended in thinking that I wasn't

7 concerned, or I didn't care about the people that

8 died in the towers, and that was the case.

9 Q And you could see how coworkers, others

10 might find this offensive?

11 A Well, afterwards, I didn't, you know --

12 really being up here, me and my friends discussing

13 it, a guy named Tom, he was a white guy that told me

14 about the movie. It was kind of their opinion about

15 the same thing, so everybody else that is not really

16 into politics or --

17 Q You stated that this was directed at your

18 coworkers; correct?

19 A Yes. Coworkers that I was discussing it

20 with, not all the coworkers in the building.

21 Q As of today, do you believe that the

22 writings and comments are inappropriate for the

23 workplace?

24 A No.

1 Q If you could turn to Page 3 of Murray-12,

2 these appear to be handwritten postings stating,

3 "Low self esteem, inferiority complex, inflated ego,

4 jealous/envious, worthless losers, nothing ass

5 employees"; did you write these comments?

6 A Yes.

7 Q And what was your intention of putting

8 these up on your workstation; who were you referring

9 to?

10 A Status quo clique.

11 Q Meaning, who?

12 A Mitchell Buffone and Dwayne Wilkerson,

13 primarily.

14 Q Why did you put these comments up?

15 A It was kind of -- to let them know that I

16 knew what they were doing as far as my items missing

17 and trash under my desk. I couldn't accuse them

18 outright, not seeing them, but I was letting them

19 know by putting up adjectives that best described

20 their personality and known character.

21 Q You were letting them know, what?

22 A Basically, that I knew that they were

23 behind it, because these things only applied to,

24 basically, those people.

1 Q I believe you stated before that you

2 understood that the memorandum of the agreement that

3 you reached in 1996 directed you not to post

4 anything in your workstation; isn't that correct?

5 A Not to post anything with racial or

6 religious or political, offended somebody's

7 political party, somebody of another race or

8 religion.

9 Q Pages 1 and 2 that we just went through,

10 is it your belief they didn't have any racial or

11 religious content?

12 A No.

13 Q I'm sorry?

14 A No.

15 Q They did no have any racial or religious

16 content?

17 A No.

18 Q None?

19 A No.

20 Q Are you saying, no content -- no racial or

21 religious content?

22 A No racial or religious slurs or derogatory

23 comments.

24 Q Or content at all?

Page 82

1 A No.  
 2 Q So it is your view that you didn't violate  
 3 any understanding that you had, or any agreement  
 4 that you had reached in 1996 because none of the  
 5 postings that you made in August of 2006 had any  
 6 religious content?  
 7 A Correct.  
 8 Q And they didn't have any racial content?  
 9 A Correct.  
 10 Q If you could turn to Page 4; is this an  
 11 article that says, "The Government's War on Black  
 12 Family"; did you post it on your workstation in  
 13 August of 2004?  
 14 A Yes.  
 15 Q What was your purpose in posting this?  
 16 A Didn't get a chance to go over the whole  
 17 thing, and I put it up -- I was researching the  
 18 possible origin of dysfunctional families,  
 19 especially in America, surfing the net, and this had  
 20 came up, and I didn't have time to print the whole  
 21 thing out, so I was going to get back to it.  
 22 And I wanted to go back to when I had  
 23 said I had posted the stuff, different -- different  
 24 -- these postings were done over a period of time,

Page 83

1 they didn't always go up -- I didn't sit down and go  
 2 1, 2, 3, 4. Every day, whenever I came across  
 3 something, and it was on my desk -- and I think --  
 4 because stuff was kept -- disappearing off my desk,  
 5 I felt maybe if I tape it up, it won't disappear. I  
 6 didn't just put it -- they don't go together is what  
 7 I am trying to say.  
 8 Q Were they all there by August 17th, 2004  
 9 when you were asked to take them down?  
 10 A Yes.  
 11 Q So they went up piecemeal, but --  
 12 A Right.  
 13 Q -- they were all there at the time that  
 14 you took them down?  
 15 A Right. Correct.  
 16 Q Was the article, The Government's War on  
 17 Black Family directed at any coworkers, management  
 18 anybody?  
 19 A No, it had nothing to do with them.  
 20 Q You can turn to the next page, and I am  
 21 going to read that page, which is 5, 6 and 7  
 22 together, because some of the items overlap from  
 23 page to page; there is a picture there, and I can't  
 24 make it out, can you tell me what that picture is

Page 84

1 of? It looks like it is a blue and red picture.  
 2 A He is a deceased member of the Nation of  
 3 Islam.  
 4 Q Okay, and what was your purpose in putting  
 5 that picture up?  
 6 A Just when I came across it on the  
 7 Internet, I wanted to read more about what it was,  
 8 and I just took the first page, some of these  
 9 articles are 50, 60 pages long, and I don't have  
 10 time to print everything out.  
 11 Q And the handwriting on the right of that  
 12 picture in red, states what?  
 13 A That is Allahu-Akbar, again, God is good;  
 14 God is great.  
 15 Q Why did you put that there?  
 16 A That -- you know how people put, God is  
 17 love, or God is good or great, just Christians  
 18 putting it around their desk, that is a saying, you  
 19 know, that God is good; God is great; no special  
 20 significance.  
 21 Q Below the picture it says, "Federal Record  
 22 Center is not an equal opportunity employer"; did  
 23 you write that?  
 24 A Yes.

Page 85

1 Q Why did you write that?  
 2 A One day I observed Mr. Buffone and Dwayne  
 3 Wilkerson sitting at the computer all day, just  
 4 looking at clothes and sneakers, and I busted my  
 5 tail, and these guys are sitting there looking at  
 6 sneakers. So that is the only thing that it refers  
 7 to.  
 8 Q You consider them to be lazy?  
 9 A For them to be lazy?  
 10 Q Is that what you are saying?  
 11 A Yes.  
 12 Q What does whether the Record Center is an  
 13 equal opportunity employer have to do with that?  
 14 A Oh, some people don't have to work, they  
 15 don't have to work, the work is not equal. I am  
 16 killing myself, and these guys are looking at  
 17 sneakers on the Internet.  
 18 Q Below that comment, there is a white  
 19 sheet, it appears to say, "Revenge is a dish best  
 20 served cold"; did you write that?  
 21 A Yes.  
 22 Q And why did you write that?  
 23 A I wrote that after I found my car  
 24 scratched.

22 (Pages 82 to 85)

Page 86

1 Q So how long had that been on your desk, at  
2 your station?  
3 A A couple of days, I guess.  
4 Q Was that directed at anybody?  
5 A Whoever scratched my car, but I don't know  
6 who.  
7 Q And what was your purpose in putting that  
8 comment up?  
9 A To let whoever was scratching my car --  
10 they wouldn't know, but I couldn't put a name on  
11 anything.  
12 Q What did you mean, revenge is a dish best  
13 served cold?  
14 A If I find out, you know, who scratched my  
15 car, I am going to scratch their car back.  
16 Q Anything else that you would do?  
17 A No, I am not going to shoot anybody over a  
18 scratch on a car; I am not going to give my freedom  
19 up for that.  
20 Q There is a paper next to that one, on the  
21 left of that one, do you remember what that states,  
22 and what the purpose of it is?  
23 A Yeah, that is the beast is coming, oh, the  
24 beast is coming after you.

1 discussing when the movie is coming out, and we said  
2 the beast is coming.  
3 Q In your view, did any of the postings --  
4 were there any other postings that you had in August  
5 of 2004 apart from what you see depicted in these  
6 pages, Murray-12; do you have any other postings  
7 apart from the Predator picture?  
8 A No.  
9 Q In your view, did any of these postings  
10 have religious content?  
11 A I don't see it, you know, to say that the  
12 movie might have been dealing with religious  
13 figures, but --  
14 Q Which movie?  
15 A Fahrenheit 9/11, discussing Muslim  
16 involvement.  
17 Q Why, in your view, if it had some content  
18 or had some discussion with religious figures, was  
19 it not a violation of your agreement from 1996?  
20 A Well, it didn't defame, or ridicule, or  
21 slur anybody's religion, I think that's what they  
22 were concerned about, they didn't want me -- even  
23 though I didn't do it back then, but I assumed that  
24 is what they were talking about. Their thing said

Page 87

1 Q Between the beast is coming after you and  
2 revenge is a dish best served cold, there is another  
3 sheet, do you know what that was?  
4 A That is something work related.  
5 Q Now, the beast is coming after you; did  
6 you write that?  
7 A Yes.  
8 Q Did you post that there?  
9 A Yes.  
10 Q And what was the intent of that?  
11 A That was when I first seen the movie  
12 trailer about The Predator, the movie coming out.  
13 Q When did that movie come out; do you  
14 remember?  
15 A August 2006.  
16 Q Did you have a picture of -- from that  
17 movie posted at your desk as well?  
18 A Yes.  
19 Q And why did you put the comment, "The  
20 beast is coming after you" on your desk?  
21 A That is just referring to the movie.  
22 Q Did you, in any way, intend for that to be  
23 directed at the clique, or anybody, coworkers --  
24 A Oh, no. Me and my friend was just

1 racial, religious or politically offensive material.  
2 Q Mr. Murray, if I could just direct you  
3 back to Murray-4, which is the agreement that you  
4 reached in 1996; we went through Paragraph C on Page  
5 1 before, again, it says, "Mr. Murray agrees that he  
6 will not post or distribute any materials in the  
7 workplace including any work spaces which may belong  
8 to, or are shared with other organizations. Mr.  
9 Murray understands that this means that he may not  
10 distribute any materials in the workplace even  
11 during lunch periods, breaks, or before and after  
12 working hours." That refers to any material, why  
13 isn't it your understanding that the agreement was  
14 so limited?  
15 A I was limited to offensive speech  
16 involving race, religion or politics, I think that's  
17 pretty much what they are stating.  
18 Q Is there any document that you have, or  
19 that you've seen that says that the agreement was so  
20 limited just to what you mentioned, offensive items?  
21 A If it was meant beyond that, they didn't  
22 state it.  
23 Q If you look back at Murray-1, there is a  
24 memo dated March 23rd, 1995, first paragraph states,

1 this is Ms. Grouzos's memo to you, "During the past  
 2 several weeks you have displayed in our break room  
 3 posters, signs, flyers, newspaper clippings and  
 4 other forms of information relating to the beliefs  
 5 of the Nation of Islam. These have contained  
 6 statements regarding racial, political and religious  
 7 matters. I have requested that you desist from  
 8 displaying such information."  
 9 The next paragraph goes on, "No  
 10 documents should be posted without prior management  
 11 approval. You are further directed to immediately  
 12 stop from distributing or posting any materials in  
 13 the work place. Your failure to comply would be the  
 14 basis for charging you with insubordination, and  
 15 taking disciplinary actions, which could include  
 16 your removal from Federal Service." Did you  
 17 understand that you were not to display any  
 18 religious, political content?  
 19 A Offensive, political content.  
 20 Q And is it your view that that was your  
 21 understanding, then, that it had to be offensive?  
 22 A Yes.  
 23 Q Offensive to whom?  
 24 A I would assume, since Catholics made the

1 complaint that it would be something that they said  
 2 -- they never said it was, they just had an  
 3 anti-Catholic theme. The never said --  
 4 Q Who said anti-Catholic theme?  
 5 A The VA. It was the theme -- nothing I had  
 6 menaced any Catholicism or Judaism or Hinduism, they  
 7 just said that the theme could have been --  
 8 Q Is it your view that nothing in the  
 9 postings from Murray-12 from August 2002 could be  
 10 viewed by coworkers or management as offensive?  
 11 A I don't think it was. I think that is the  
 12 pretext. How they could be offended -- they could  
 13 be offended by a documentary.  
 14 Q How about, Osama totally exonerated an  
 15 innocent man, you don't see how that could be  
 16 offensive?  
 17 A No, not if there is evidence to support  
 18 it.  
 19 Q How about the comments directed at  
 20 coworkers; do you see how that can be offensive to  
 21 coworkers?  
 22 A Nope. No names were called out.  
 23 Q I am going to show you what has been  
 24 marked as Murray-11, if you could take a look at it.

1  
 2 (Whereupon, a document was  
 3 previously marked for  
 4 identification as Exhibit  
 5 Murray-11.)  
 6 BY MR. SULLIVAN:  
 7 Q This is an August 17th, 2004 letter from  
 8 Elizabeth Washington to you regarding the display of  
 9 the items that we just looked at in August of 2004;  
 10 did Ms. Washington present this letter to you?  
 11 A Yes, she did.  
 12 Q And that is your signature at the bottom?  
 13 A Yes, it is.  
 14 Q And that acknowledges that you had  
 15 received it on August 17th, 2004?  
 16 A Yes.  
 17 Q Did Ms. Washington sit down with you to  
 18 discuss this letter?  
 19 A No.  
 20 Q Did anybody sit down with you to discuss  
 21 the letter?  
 22 A No.  
 23 Q Mr. Murray, I am going to have marked as  
 24 Murray-17, your Affidavit in the EEO proceeding.

1 (Whereupon, a document was  
 2 marked for identification as  
 3 Exhibit Murray-17.)  
 4 BY MR. SULLIVAN:  
 5 Q If you could just page briefly through  
 6 this and tell me if you recognize it?  
 7 A Yes, I do.  
 8 Q And is this your Affidavit from the EEO?  
 9 A Yes, it is.  
 10 Q And is that your signature on the last  
 11 page?  
 12 A Yes.  
 13 Q And did you sign this on January 31st,  
 14 2005?  
 15 A Yes.  
 16 Q There are handwritten comments throughout  
 17 the document, are those your handwritten comments?  
 18 A Yes, they are.  
 19 Q So those are changes you made to the  
 20 document to make it accurate, in your view?  
 21 A Yes.  
 22 Q On Page 2, towards the bottom, you state  
 23 that on August 17th, Ms. Washington brought you a  
 24 letter, she told you that you needed to read it, and

1 to ask -- you would let her know if you didn't  
 2 understand something in the letter, you told her  
 3 that you did, and started taking items down from  
 4 your work area; is that correct?  
 5 A That's correct.  
 6 Q And you had some brief discussion about  
 7 the letter with Ms. Washington then?  
 8 A Well, she stood at the top of me when I  
 9 read it, and I said, okay, no problem, and signed it  
 10 and gave it to her.  
 11 Q On Page 8, you state in the first  
 12 paragraph that has an A before it, she, Miss  
 13 Washington, let me know that I should put away  
 14 everything personal, not put anything in my work  
 15 area that was political or religious or about race;  
 16 did you have a conversation with her then about the  
 17 letter and what was required of you?  
 18 A Before that day was over.  
 19 Q Was that before, or after you took things  
 20 down?  
 21 A After I took things down.  
 22 Q Did you have a meeting with her then after  
 23 you took things down?  
 24 A No, just general conversation going back

1 and forth in that office.  
 2 Q What did you discuss?  
 3 A She asked me if I remembered to get  
 4 everything down by 2:30, and I told her that I had  
 5 taken it down as soon as she walked way.  
 6 Q Did you discuss anything else?  
 7 A This is just a little bit closer to the  
 8 time. Yeah, towards the end of the day, before I  
 9 left, she checked to make sure that everything was  
 10 down; she had walked away before I started taking  
 11 them down.  
 12 Q Did you have any conversations beyond what  
 13 you already talked about?  
 14 A No.  
 15 Q The letter states in the second big  
 16 paragraph, this is not the first time that you  
 17 engaged in this type of behavior, it refers to the  
 18 incident with the Social Security Administration,  
 19 and then proceeds to say that you are ordered to  
 20 immediately remove, by 2:30, all the materials from  
 21 the work area, and never to display them, or  
 22 anything similar, in any work area at the National  
 23 Archives; did you read that at the time?  
 24 A I'm sorry, what number?

1 Q I'm sorry, this is Murray-11, the August  
 2 17th, 2004 letter.  
 3 A Okay.  
 4 Q I guess on that theme, you read this  
 5 letter on August 17th, 2004; is that correct?  
 6 A Yes.  
 7 Q And you understood that management was  
 8 saying that your postings was offensive to  
 9 coworkers, security force and management?  
 10 A Yes.  
 11 Q And it says that this was not the first  
 12 time that you had posted similar types of material;  
 13 is that correct?  
 14 A Correct.  
 15 Q And then stated in the second to the last  
 16 main paragraph, you are ordered, immediately, to  
 17 remove, no later than 2:30 p.m. today, all of these  
 18 materials from your work area, and never to display  
 19 them or anything similar in any work area at the  
 20 National Archives; you read that, correct?  
 21 A Yes.  
 22 Q And did you, then, remove all of the  
 23 materials?  
 24 A Yes, I did.

1 Q "To be clear, you are to display no  
 2 materials that make reference to race, religion,  
 3 political views, or that make disparaging remarks in  
 4 any way, at any location at the National Archives;  
 5 did you read that, that day?  
 6 A Yes.  
 7 Q Okay. And you read that it said that you  
 8 weren't to post anything further that referred to  
 9 race; is that correct?  
 10 A Yes.  
 11 Q And you read that you were not to post  
 12 anything further that related to religion; correct?  
 13 A Yes.  
 14 Q And you read that you were not to display  
 15 anything further that could be viewed as political  
 16 views; correct?  
 17 A Yes.  
 18 Q And you read that you are not to post  
 19 anything further that made disparaging remarks in  
 20 any way; correct?  
 21 A I really didn't know what she was talking  
 22 about, but to make my supervisor -- make her job  
 23 smooth, I just, you know, agreed, whatever, anything  
 24 that they figure that is to keep confusion down.

1 Q Well, you read that you are not to make  
2 any disparaging remarks in any way, or make any  
3 postings or letters or disparaging remarks?

4 A Correct.

5 Q And it said, if you fail to follow this  
6 order you will be charged with insubordination,  
7 which will form the basis for removal from the  
8 Federal Service?

9 A Correct.

10 Q And you understood that that was the  
11 position of the agency on August 17th, 2004?

12 A Correct.

13 Q Did you ask Ms. Washington, or anybody in  
14 management any questions after you received this and  
15 what the intention was, or what the meaning of this  
16 was?

17 A No.

18 Q You thought that it was pretty obvious?

19 A I thought it was a harassment, but you  
20 don't have any clout, you have no choice but to  
21 comply.

22 Q You knew what they were saying?

23 A I knew that Mitchell Buffone had  
24 complained, because when he saw the inferiority

1 complex, which he is known to have, that -- nobody  
2 said anything, specifically, I just took everything  
3 down; it might have been only one thing. It might  
4 not have even been that, it might have been  
5 something else, I don't know, but just to make  
6 things go smoothly at work, I took everything down.

7 Q Was it unclear to you, in any way, what  
8 management was saying to you in this letter?

9 A My interpretation and understanding of the  
10 letter was, something up there was offensive, it was  
11 causing someone mental stress, and I, kind of,  
12 recognized that it was probably Mitchell Buffone  
13 recognizing the comments about him, and that is,  
14 basically, what I thought it was.

15 Q Okay, but you understood that in the  
16 future, you weren't to display any of these sorts of  
17 materials again, or you would be in trouble with  
18 management?

19 A I understood not to display anything that  
20 was offensive.

21 Q Now, did you have the belief that this  
22 letter arose from a complaint that Mr. Buffone, or  
23 somebody had made to management?

24 A That was my perception.

1 Q Basically, on what?

2 A Nothing up there really was directed  
3 toward anybody else; I get along with everybody else  
4 at work, and since me and my friends were discussing  
5 Fahrenheit 9/11, and I never had any problems with  
6 John McGee or Beneson who walked past my desk, so  
7 had to be anybody but him.

8 Q Mr. Murray, I am going to have marked  
9 Murray-16, a memo from you to Mr. Shawn Walker in  
10 the EEO proceeding dated October 6th, 2004.

11 (Whereupon, a document was  
12 marked for identification as  
13 Exhibit Murray-16.)

14 BY MR. SULLIVAN:

15 Q Is this the statement that you made in the  
16 EEO proceeding?

17 A Yes.

18 Q Is this your handwriting?

19 A Yes.

20 Q You state on Page 1, and the way this is,  
21 the same page is copied twice because the top  
22 appears on the first page, and the bottom appears on  
23 the second page, so, it is a little hard to read at  
24 first. At the bottom of the first page which is the

1 first full paragraph, it says, "For over a year now,  
2 Mr. Hong Diep has been referencing -- I mean,  
3 playing practical jokes on me for some unknown  
4 reason. Mr. Hong is responsible for some personal  
5 items of mine, such as: tooth brush, hairbrush,  
6 deodorant, et cetera. I have never caught him in  
7 the act, but all evidence points to Mr. Diep.

8 Knowing full well that Mr. Diep is  
9 handicapped and functionally illiterate, I decided  
10 to retaliate by posting such statements on my desk  
11 as; two legged cockroach, two legged rat, revenge is  
12 a dish best served cold. These statements were  
13 intended to embarrass Mr. Diep."

14 You just mentioned that you believed  
15 that Mr. Buffone, I believe, was the source of a  
16 complaint that led to the August 17th, 2004 letter;  
17 have you, from time to time, believed that Mr. Diep  
18 was the source?

19 A He was primarily stealing boxes, and then  
20 I, kind of, wondered if he would do that, but I know  
21 that he was taking, for a fact, boxes and supplies,  
22 because they were showing up on top of his desk and  
23 under his desk, and --

24 Q Mr. Diep is deaf and mute; is that

1 correct?  
 2 A Yes.  
 3 Q Okay.  
 4 A So, I am, kind of -- I am, kind of,  
 5 convinced that him and Buffone, together, without  
 6 actually clarifying who would do what.  
 7 Q Going back to Murray-12, for example,  
 8 revenge is a dish best served cold; you are saying  
 9 that referred to Mr. Diep, D-I-E-P, did it refer to  
 10 Mr. Diep or Mr. Buffone, or both?  
 11 A It could be both because I don't know who  
 12 scratched the car.  
 13 Q But you had concerns about Mr. Diep in  
 14 August of 2004?  
 15 A Yes.  
 16 Q Did you ever confront him about those  
 17 concerns?  
 18 A No, he can't speak, and he can't hear, and  
 19 I wouldn't want to do anything that would make him  
 20 think that I was trying to scare him.  
 21 Q And you say, I decided to retaliate by  
 22 posting those scary statements that referred to; is  
 23 that your goal to retaliate against Mr. Diep, or  
 24 whoever you thought responsible for these actions by

1 posting those statements?  
 2 A Yes.  
 3 Q Did you ever come to learn that somebody  
 4 was the source of a complaint about you that led to  
 5 the August 17th, 2004 letter?  
 6 A Just what everyone generally believes;  
 7 there is no hard evidence, but everyone at work  
 8 believes that it was him, also.  
 9 Q I'm sorry, who?  
 10 A Everyone believes that the source of the  
 11 original complaint was Mr. Buffone.  
 12 Q So it is your understanding then -- was it  
 13 your understanding in August 2004, that someone,  
 14 regardless of whether you think they had a basis or  
 15 not, that someone had claimed that they were  
 16 offended by these statements that you had posted?  
 17 A Yes.  
 18 Q I won't mark this right now, but in  
 19 October 6th, 2004 statement, you are referring to --  
 20 if you want to see, just let me know, the evil eye  
 21 was given to Mr. Diep after an almost altercation  
 22 between Mr. Diep and myself; can you explain that?  
 23 A We were in an area designated as Stack D,  
 24 and we have ladders that allows us to climb about

1 14 feet in the air to get boxes -- retrieve boxes  
 2 from a shelving, and there was a ladder sticking out  
 3 of the aisle, and as I was walking over to it, it  
 4 was half-way in the aisle, and I didn't know that he  
 5 was going to be standing at the very top of it, and  
 6 I just went to pull it out, and he was on top of it,  
 7 and since he can't talk, he just started kicking his  
 8 foot at me, and just gave me, like, a real nasty  
 9 look, and I just looked at him, too.  
 10 Q When you were saying that you were giving  
 11 him the evil eye, what do you mean by that?  
 12 A I was letting him know, don't kick your  
 13 foot at me; I was staring at him.  
 14 Q When was that?  
 15 A Just before I went out on administrative  
 16 leave.  
 17 Q Was it before or after the August postings  
 18 were removed?  
 19 A Before.  
 20 Q Apart from your statement that you believe  
 21 that possibly the Fahrenheit 9/11 documentary  
 22 portrayed a figure who had a religious aspect to  
 23 him, is there anything else that you posted in  
 24 August that you believe had religious content; this

1 is Murray-12.  
 2 A No.  
 3 Q Okay, do you agree that you did end up  
 4 posting some more document, then again, after August  
 5 17th, 2004 at your work station?  
 6 A Yes.  
 7 Q Why would you post anything again after  
 8 you received the August 17th, 2004 letter from Ms.  
 9 Washington?  
 10 A There was nothing else regarding racially,  
 11 or religious, or politically offensive tenures. I  
 12 mean, other people have postings on their desk, use  
 13 paper clippings that might deal with something --  
 14 copies of Time Magazine, News Week that deals with  
 15 racial and politics, but the difference would be,  
 16 the stuff was not offensive. It was not that I  
 17 can't put my Karon on the desk, but they can't --  
 18 they didn't bother me about that because you can't  
 19 say that somebody's bible is special.  
 20 Q Ms. Washington in her EEO Affidavit  
 21 stated, I found at times when I gave Mr. Murray  
 22 instructions about things, he sometimes had  
 23 difficulty following what I wanted him to do; I  
 24 found that sometimes he had very strong opinions and

1 wanted to do things his own way, rather than doing  
 2 what I asked him to do; did Ms. Washington ever  
 3 state her view of you that you would not always  
 4 follow her instructions and would be strong minded  
 5 in doing your own thing?  
 6 A No, but she wasn't trying to see things --  
 7 I got more experience in refiling work and keeping  
 8 track of things. Sometimes employees will write the  
 9 wrong chart out information on a folder, chart out  
 10 information is the box number that it came out of,  
 11 the assession number and the location, and when they  
 12 do that, then when it comes time to do the refiling  
 13 of the box, it will go back in the wrong box, and I  
 14 was just trying to explain to her, I am not  
 15 disagreeing with you, but I have been out at this  
 16 location, I looked through the box, and the file  
 17 number is not matching up, and all she knows is that  
 18 the information on there -- put it back, and even  
 19 though somebody out ranks me, if they are doing  
 20 something wrong, I am going to have a strong opinion  
 21 about it, but, you know, not in the negative way.  
 22 Q Did she ever say that she had a broader  
 23 concern about you that she would give you  
 24 instructions, generally, and you would not follow

1 them --  
 2 A Oh, no.  
 3 Q -- and do your own thing?  
 4 A No. Not at all.  
 5 Q Is it your position then, based on what  
 6 you just told me, that nothing that you posted in  
 7 September of 2004 had any religious content?  
 8 A Correct.  
 9 Q That is your position?  
 10 A That is my position.  
 11 Q Is it your position that nothing that you  
 12 posted in September of 2004 had any racial  
 13 components to it?  
 14 A True. Correct, my position.  
 15 Q Do you know how the September 2004  
 16 postings were discovered?  
 17 A It seems as though Mr. Buffone called Mr.  
 18 McEvoy and told him to go back and look at them.  
 19 Q Called Mr., who?  
 20 A Mr. McEvoy, John McEvoy.  
 21 Q How do you know that?  
 22 A I don't, it is just an assumption.  
 23 Q Okay. Did you see Mr. McEvoy observing  
 24 your work station?

1 A No.  
 2 Q Do you know if Mr. McEvoy was with  
 3 somebody else when he observed your work station?  
 4 A No.  
 5 Q Mr. Murray, I am going to mark as --  
 6 actually, let me just go through this first. You  
 7 can take a look at what we've marked as Murray-13, I  
 8 would appreciate it.  
 9 (Whereupon, a document  
 10 previously marked for  
 11 identification was submitted as  
 12 Exhibit Murray-13.)  
 13 A I recognize this.  
 14 Q Okay. There are eight pages; are these  
 15 photographs of postings that you had on your  
 16 cubby-hole workstation in September of 2004?  
 17 A Yes.  
 18 Q And is all of this material that you had  
 19 posted between August 17th, 2004 and September 16th  
 20 2004?  
 21 A Yes.  
 22 Q Is there anything on these pages that you  
 23 did not post on your workstation?  
 24 A I think everything here is mine.

1 Q Let's go through page by page. The first  
 2 page in blue writing, handwriting, "It is just a  
 3 matter of time now. Be patient." Is that your  
 4 handwriting?  
 5 A Yes, it is.  
 6 Q And what does that refer to?  
 7 A The Predator Versus Alien movie is coming  
 8 out.  
 9 Q If you could take a look at Murray-16, it  
 10 is your October 6th, 2004 EEO statement.  
 11 A Got it.  
 12 Q If you could look at Page 3 of the  
 13 statement, turn to Page 3.  
 14 A (Witness complies.)  
 15 Q About midway down, it says referring to,  
 16 it is just a matter of time now. Be patient. This  
 17 refers to the upcoming presidential election; is  
 18 that true?  
 19 A That is true.  
 20 Q So it did refer to the election?  
 21 A Yes. Both. Well, the election wasn't  
 22 going to be then, at the time of the movie, but when  
 23 I put it up, I was talking about the election.  
 24 Then, when I was scanning the Internet and I seen

Page 110

1 Predator thing, that was on my mind, too. It won't  
2 be long.  
3 Q And below on Page 1, going back to Page 1  
4 of Murray-13, the photographs, it says, vote  
5 November 11, 2004, Kerry; what was that a reference  
6 to?

7 A I had to redo -- register to vote, remind  
8 myself.

9 Q So did it refer to the upcoming election?

10 A Well, I am going to register to vote for  
11 the upcoming election.

12 Q If you could look at Murray-16, which is  
13 your EEO Affidavit. No, the typewritten EEO  
14 Affidavit.

15 Mr. Murray, now in previous  
16 references to the Affidavit, it should be Murray-17,  
17 and I am directing you to Page 3, you state there,  
18 my note; it is just a matter of time now. Be  
19 patient, referred to the upcoming election. I was  
20 hoping that John Kerry would be elected president,  
21 and that is what I meant there. I put up a note to  
22 remind myself to register to vote in the  
23 presidential election?

24 A Yes.

Page 111

1 Q So your note about, it is just a matter of  
2 time now. Be patient; referred to your hope that  
3 Kerry would be elected president; correct?

4 A Yeah, and when I put that up there, too,  
5 this was referring to the movie coming out.

6 Q Let me ask you, now, the August 17, 2004  
7 letter, which is Murray-11 said, to be clear, you  
8 are to display no materials to make reference to  
9 political views; why did you put up these postings  
10 after you received that letter?

11 A That wasn't offending or offensive to  
12 anybody's political -- it wasn't making fun of any  
13 candidates, or degrade somebody's political party.

14 Q Who told you that the August 17th, 2004  
15 letter only referred to what you would characterize  
16 as offensive or degrading to other people in terms  
17 of their politics?

18 A Well, I was scanning in my mind about why  
19 something like this would come up, and the only  
20 thing that I could think of was, the original letter  
21 about the offensiveness, and they were using that so  
22 they were referring to offensiveness, say, even if  
23 they didn't put offensive in it, but I can't see  
24 anyone complaining about someone having democrats or

Page 112

1 republicans or something on a Time Magazine cover  
2 sitting on a desk being a problem, so, someone had  
3 to be offended. Something has got to be in that,  
4 that you are hurting somebody's feelings or  
5 something.

6 Q So that was the test that you used,  
7 whether in your mind that you were hurting  
8 somebody's feelings?

9 A Yes.

10 Q Below the November 11th, 2004 note, it  
11 says, beware of the snitch committee; what does that  
12 refer to?

13 A That is just between, gossiping and rumors  
14 between me and friends and a couple of us in the  
15 workplace.

16 Q I'm sorry, it was directed at, who?

17 A Friends and the coworkers, people -- my  
18 friends and associates discussing personal issues  
19 about people dating, and talking people's business.

20 Q Who were you telling to be aware?

21 A Different girls about their business going  
22 around. See, I never wanted to put anybody's name  
23 up, because I don't want to -- anyone to take  
24 something the wrong way, and it is my understanding

Page 113

1 of something, I will just put a general comment out

2 Q Below that it says, two legged cockroaches  
3 --

4 A Now --

5 Q -- who did that refer to?

6 A -- that was Hong because he took six white  
7 boxes off my desk that I prepared to re-box and  
8 busted boxes up, and I had to fix them up.

9 Q So this was meant, when you were using the  
10 words you used before, this was meant to retaliate  
11 against him?

12 A Yeah.

13 Q Was it meant as a warning to him?

14 A No, it was just mocking him, like,  
15 cockroaches, they run off with your stuff when you  
16 are not looking, and that is what he was doing.

17 Q To the left of that statement there is a  
18 picture, is that from the movie, Predator?

19 A Yes.

20 Q And if you go to the third page of the  
21 photographs, there is a better picture of the  
22 Predator image and the word, Predator, and below  
23 that is a Chapter, it says, Chapter 782,  
24 disciplinary and adverse actions; why did you place

29 (Pages 110 to 113)

|  |  |
|--|--|
| <p style="text-align: right;">Page 114</p> <p>1 that posting regarding to disciplinary and adverse<br/>2 actions?<br/>3 A Something that I was looking at in the<br/>4 spacesaver.<br/>5 Q Was that related, in any way, to the<br/>6 Predator imagine?<br/>7 A No, that was a government issued thing;<br/>8 that is nothing to do with anything else on there.<br/>9 Q Going back to the first page, is that your<br/>10 writing saying, American Government versus American<br/>11 people (human race)?<br/>12 A Yes.<br/>13 Q And what did you mean by that?<br/>14 A We have college students come in in the<br/>15 summer and work with us, and they had noticed that I<br/>16 did a lot of research on the Internet about race,<br/>17 religion and politics, and they had recommended that<br/>18 that book would be on Amazon dot com, or something,<br/>19 and this is interesting to somebody like me, might<br/>20 be interested in reading.<br/>21 Q What book?<br/>22 A American Government versus American<br/>23 People.<br/>24 Q Who wrote the book?</p>  | <p style="text-align: right;">Page 116</p> <p>1 Q And why did you put that posting up with<br/>2 the highlighting about the voting rights of<br/>3 African-Americans?<br/>4 A These papers were, like, flat down on my<br/>5 desk, and just to take up space, you know, so they<br/>6 wouldn't disappear, like, I wanted to see if I<br/>7 started taping stuff to my desk, would it not just<br/>8 disappear versus me just having it laying down flat.<br/>9 Q And I am going to ask you to follow the<br/>10 questions on -- the second document is more<br/>11 decipherable on Page 7 of this Exhibit; it looks<br/>12 like a memo to personnel from John McEvoy, you,<br/>13 apparently have highlighted something referring to<br/>14 NARA three or four absence and leave; it is a memo<br/>15 that is signed by John McEvoy, and down at the<br/>16 bottom is your signature; it is your signature,<br/>17 correct?<br/>18 A Yes.<br/>19 Q Acknowledging received?<br/>20 A Yes.<br/>21 Q And you wrote on this document, "None dare<br/>22 call it conspiracy"; correct?<br/>23 A Correct.<br/>24 Q And then the final document is better</p> |
| <p style="text-align: right;">Page 115</p> <p>1 A Oh, I still got to go in and look it up.<br/>2 Q You are saying that is the actual title,<br/>3 American Government versus The American People of<br/>4 Human Race?<br/>5 A Um-hum. No, now, the human race thing, he<br/>6 was saying there was something about the feature of<br/>7 the human race thing, so, I am not sure that is<br/>8 actually part of the title or not.<br/>9 Q Below that statement, there are three<br/>10 pieces of paper with yellow highlighting and<br/>11 handwriting on them, did you put those there as<br/>12 well?<br/>13 A Yes.<br/>14 Q I think there are better pictures I found,<br/>15 the first one is on Page 6 of the photographs, on<br/>16 that you apparently written, "separate and unequal"<br/>17 underneath that; is that correct?<br/>18 A Yes.<br/>19 Q And that is a memo regarding Bill Cosby's<br/>20 wife, gave something in a function; do you remember<br/>21 what that memo refers to?<br/>22 A It was sent to one of my coworkers, and<br/>23 she had gave it to me to read, and it was something<br/>24 to do with voting, voting rights, acts or something.</p> | <p style="text-align: right;">Page 117</p> <p>1 viewed on Page 5 of those photographs that is<br/>2 August 17th, 2004 letter from Ms. Washington to you<br/>3 correct?<br/>4 A Correct.<br/>5 Q And you have written an arrow from John<br/>6 McEvoy's name up to -- in reference to an article<br/>7 entitled, The Government's Assault on the Black<br/>8 Family; correct?<br/>9 A Correct.<br/>10 Q And you've written, "the plot thickens" in<br/>11 red magic marker at the bottom of this document;<br/>12 correct?<br/>13 A Yes, on another day, not the same day.<br/>14 Q And I am going back to those indirectly by<br/>15 having marked, first, the letter from your Union<br/>16 Representative James Cassedy, C-A-S-S-E-D-Y, to<br/>17 David Roland, dated October 21st, 2004, if I could<br/>18 have that marked Murray-18.<br/>19 (Whereupon, a document was<br/>20 marked for identification as<br/>21 Exhibit Murray-18.)<br/>22 BY MR. SULLIVAN:<br/>23 Q Mr. Murray, if you could take a look at<br/>24 Murray-18, have you seen this letter from your union</p>  |

30 (Pages 114 to 117)

Page 118

1 representative to Mr. Roland from October 2004  
 2 before?  
 3 A Yes.  
 4 Q Did you have a chance to consult with your  
 5 union representative before he consulted with Mr.  
 6 Roland?  
 7 A No.  
 8 Q He didn't discuss this with you before he  
 9 sent it out?  
 10 A No.  
 11 Q Have you reviewed it since he sent it out?  
 12 A Yes.  
 13 Q Do you believe that the letter is  
 14 accurate?  
 15 A Parts, not everything.  
 16 Q Mr. Cassidy, in discussing your September  
 17 2004 posting says, Mr. Murray hung other official  
 18 issuances from NARA managerial staff, as well as  
 19 personal letters that he received from management,  
 20 and labeled them with statements that indicated his  
 21 feelings about NARA workplace conditions. For  
 22 instance, one item governing workplace rules was  
 23 hung with the rubric, "None Dare Call it  
 24 Conspiracy". Did you discuss those topics with Mr.

Page 119

1 Cassidy before you sent this letter out?  
 2 A No.  
 3 Q You didn't discuss it at all?  
 4 A No.  
 5 Q In your statement on these three postings,  
 6 separate and unequal, none dare call it conspiracy,  
 7 the plot thickens; referred in any way to the  
 8 documents that you wrote these subjects on?  
 9 A No.  
 10 Q So the resemblance, or the similarity  
 11 between the comments and the letter is  
 12 circumstantial, in your view?  
 13 A The similarities?  
 14 Q Yes, if there is any correspondence  
 15 between the comments and the documents that they are  
 16 on, is that just accidental?  
 17 A No, they -- some of the letters I am not  
 18 sure -- but one of them is, but it is nothing that I  
 19 wrote that is related to it, the comment about the  
 20 letters.  
 21 Q Separate and unequal, why is that written  
 22 there, on the document that it is written on?  
 23 A That is involving separate and unequal  
 24 voting rights issues, or something that another one

Page 120

1 of the college students was familiar with.  
 2 Q How about, none dare call it conspiracy;  
 3 why did you write that on that document?  
 4 A That is the name of another book.  
 5 Q Why did you write it on that particular  
 6 document?  
 7 A I was at the computer at the time when he  
 8 told me about it, and that was a piece of paper that  
 9 was available.  
 10 Q Why did you highlight the document as you  
 11 did?  
 12 A Which one?  
 13 Q The one that has, none dare call it  
 14 conspiracy, you highlight, NARA three or four  
 15 absence.  
 16 A That was highlighted at a much different  
 17 date.  
 18 Q Why did you post that document?  
 19 A Again, just -- documents that I didn't  
 20 want to be disappearing from my desk, so I just  
 21 started hanging them up, to see -- I wanted to know  
 22 if somebody was going to take them down and still  
 23 stick them under my supervisor's door.  
 24 Q You are saying, None Dare Call it

Page 121

1 Conspiracy is the name of a book?  
 2 A Oh, it is, that one I know for sure.  
 3 Q Who wrote the book?  
 4 A I don't know, it is on the Internet.  
 5 Q And the third document is the August 17th,  
 6 2004 letter; why did you write, the plot thickens on  
 7 that document?  
 8 A That's -- actually, I wrote the wrong  
 9 thing down, it is supposed to be the Passover plot.  
 10 Q It is supposed to be, what?  
 11 A The Passover Plot.  
 12 Q Why did you write what you wrote, or --  
 13 A I got the title wrong.  
 14 Q Why did you write something on the  
 15 document?  
 16 A Again, just scratch paper, and I was on  
 17 the Internet, and somebody asked me to check out, or  
 18 look something up for them, I would just write it  
 19 down on whatever I had available.  
 20 Q Did your statement relate at all to the  
 21 events of August 2004, or the subject matter of the  
 22 letter?  
 23 A I am not following you.  
 24 Q You say that the plot thickens, is your

31 (Pages 118 to 121)

1 misstatement of the title of a book?

2 A Correct.

3 Q Did whatever you wrote, or intended to  
4 write on that document relate at all to the letter  
5 that it was written on?

6 A No.

7 Q Again, looking at the document image on  
8 Page 5 of the photographs, you have an arrow pointed  
9 from John McEvoy's name up to the reference to  
10 article entitled, The Government's Assault on the  
11 Black Family; why did you make that arrow?

12 A When Mrs. Washington handed it to me and I  
13 was reading it, just going up and down with it just  
14 to make sure that I, you know, read it from  
15 beginning to end, and then I couldn't understand why  
16 his name was on it, so I just was going to ask him  
17 whenever he asked me during the time to go over with  
18 me in more detail.

19 Q Do you understand how somebody reviewing  
20 these, or seeing these documents could view the  
21 statements that you wrote on the documents as  
22 relating to the documents?

23 A I guess if they didn't know me or didn't  
24 ask me, they could assume anything.

1 Q Do you see how management could view these  
2 as challenges to management, or an attack on  
3 management?

4 A No.

5 Q Do you recall that the August 17th, 2004  
6 letter states, that you are to display no materials  
7 that make disparaging remarks, in any way, at any  
8 location at the National Archives; correct?

9 A Correct.

10 Q Do you see how the reference to, two  
11 legged cockroaches could be viewed as disparaging?

12 A If it was directed at a person that there  
13 was a name attached to it, other than that it could  
14 be words that were attached on an advertisement or  
15 something.

16 Q But you said that it referred to Mr. Diep;  
17 correct?

18 A Only I knew that.

19 Q But you did intend it to refer to him?

20 A I did intend it to refer to Mr. Diep.

21 Q So it was disparaging to him?

22 A He would never know that.

23 Q But you know that?

24 A I knew that.

1 Q The documents and the statements that you  
2 had handwritten, do you see how those could be  
3 disparaging to management, the plot thickens, none  
4 dare call it conspiracy?

5 A What would they have to do with that?

6 Q Do you see how somebody in management  
7 couldn't see documents that management is written  
8 with you writing, none dare call it conspiracy, or  
9 the plot thickens; although it could be seen as  
10 disparaging to management?

11 A As management thinking that I am referring  
12 to the contents of the letter?

13 Q Yes.

14 A It seemed like if they thought that, they  
15 would ask me about it. Nobody ever asked me that.

16 Q Did you consult with anybody in  
17 management, or any place about whether the postings  
18 that you made in September were in violation of the  
19 August 17th, 2004 directive?

20 A No. The papers that were being placed  
21 under my supervisor's door were like these, and  
22 Mr. Beneson seen them; didn't make any sense to him  
23 if he say he didn't want them and ripped them up and  
24 threw them in the trash. It didn't bother him.

1 Q On this part of my questioning, I just had  
2 a few more questions, but I know that it is about  
3 2:10 right now; do you have a few minutes before you  
4 need to make a call home?

5 A Yes. I will wait because they told me to  
6 call back at 2:15.

7 Q Do you contend that there was any  
8 religious discrimination against you when you were  
9 directed to remove the August 2004 postings from  
10 your work station?

11 A Probably, because of the word, Allahu. It  
12 seems like every time that word is on -- written  
13 anywhere, someone sees it, that they get -- seem to  
14 get upset about it. Something about that is  
15 intimidating to them, I think. I don't understand  
16 why, knowing me, I never displayed any violent  
17 tendencies or behavior in the workplace, ever. But  
18 I don't -- so I think that is just an excuse to  
19 harass me; I think it is just an excuse.

20 Q Is that your speculation that -- when that  
21 reference is on a posting, that it was a problem for  
22 you, or did someone actually say something to you  
23 that led you to that belief?

24 A Just what I surmised from -- it seems like

Page 126

1 whenever that was up -- because when these things  
2 were posted over different days and nobody never  
3 said anything, so I thought, maybe, when I wrote  
4 that on there, they were -- because I didn't write  
5 -- the Arabic was on there, I didn't put it up, it  
6 was up, and then later, as I was thinking about it,  
7 I was -- might write that, so I thought, since I  
8 wrote that, and if I didn't write the Arabic on  
9 there, that they might not have made the complaint.

10 Q Do you believe that there was any  
11 religious discrimination against you related to the  
12 directive that you remove the September 2004  
13 postings in it, was there any action taken against  
14 you in September 2004, based upon your postings in  
15 September 2004?

16 A I think the religious discrimination is  
17 that, they don't want any Arabic materials, or  
18 Islamic materials on my desk, or around it, or  
19 anything, but if you want to put up anything from,  
20 like, the Christian religion, it is fine, it is all  
21 right, but Islamic is not welcomed in this country.

22 Q What, in the September 2004 postings that  
23 you put up had any kind of Arabic or Islamic  
24 content?

Page 127

1 A Allahu-Akbar, the words.

2 Q And where was that in the September 2004  
3 postings?

4 A In August.

5 Q I asked you about September 2004.

6 A I'm sorry.

7 Q Do you remember, is there -- was any  
8 religious discrimination against you regarding any  
9 action that was taken against you based on the  
10 September 2004 postings?

11 A No.

12 Q Okay. So your contending only that there  
13 was a religious discriminatory aspect to the  
14 direction in August of 2004 that you remove your  
15 postings?

16 A Correct.

17 Q And not September 2004?

18 A Correct.

19 Q Your union representative, in his letter  
20 that I showed you, Murray-18, says regarding the two  
21 legged cockroach posting, "Mr. Murray acknowledges  
22 that this attempt at humorous revenge was not an  
23 appropriate way to handle this conflict with Mr.  
24 Diep." Is that true; did that come from you?

Page 128

1 A Yes.

2 Q Okay, so you believe that was not an  
3 appropriate way to deal with Mr. Diep?

4 A Yes.

5 Q Do you believe that your comments in the  
6 August postings, revenge is a dish best served cold  
7 and similar references is not an appropriate way to  
8 deal with Mr. Diep or Mr. Buffone?

9 A Yes, I regret lowering myself to acting on  
10 their level and on their age, but knowing that I was  
11 never going to harm anybody, and I was just trying  
12 to figure out some way to get them to stop, and I  
13 figured if other people knew that it was him, too,  
14 then they would feel bad about doing it, and they  
15 would, eventually, stop.

16 (Whereupon, a document was  
17 marked for identification as  
18 Exhibit Murray-19.)

19 BY MR. SULLIVAN:

20 Q Mr. Murray, this is a November 18, 2004  
21 EEOC statement that you made; correct?

22 A Correct.

23 Q You can turn to Page 13, please.

24 A (Witness complies.)

Page 129

1 Q You remember that in your August posting,  
2 Page 5 of Murray-12, you wrote that Federal Records  
3 is not an equal opportunity employer, and here on  
4 Page 13 you say, "Calling NARA a nonequal  
5 opportunity employer on a posting on my desk was my  
6 way of getting their attention and initiating  
7 dialogue which they refused to do." Was that  
8 comment aimed at getting management to talk to you?

9 A Well, I thought if they would ask me about  
10 it, I would tell them, you know, without being a  
11 direct, what I call a snitch, telling them about  
12 people being on the computer all day. If they would  
13 ask me, I would try to explain to them that I didn't  
14 think it was appropriate for them to be on the  
15 computer all day long, and that's what they were  
16 doing.

17 Q Were some of the comments that you posted  
18 in August and September aimed at getting management  
19 to talk to you about issues and concerns that you  
20 had?

21 A Not except for the unequal one.

22 Q How about the three letters and the  
23 September postings that you can see on the first  
24 page of the September 2004 photographs; did you put

33 (Pages 126 to 129)

|   |   |
|---|---|
| <p style="text-align: right;">Page 130</p> <p>1 them there, in any way, to try to get management to<br/> 2 respond?<br/> 3 A No.<br/> 4 Q Mr. Murray, I want to turn next to what<br/> 5 happened when these September postings were<br/> 6 discovered, and I don't know if you want to make the<br/> 7 call that we referred to earlier.<br/> 8 A Yes.<br/> 9 (Whereupon, a brief recess was<br/> 10 taken.)<br/> 11 MR. SULLIVAN: Just for the record, it is<br/> 12 about 2:20 in the afternoon, and Mr. Murray has<br/> 13 told us that he has got an emergency at home<br/> 14 and that he needs to get to.<br/> 15 I still need to cover issues regarding<br/> 16 September 2004 and some follow-up material as<br/> 17 well; so we will do that when we resume, and<br/> 18 let's talk today and tomorrow when you get back<br/> 19 to me about when we could reschedule; okay?<br/> 20 THE WITNESS: Okay. Sorry.<br/> 21 MR. SULLIVAN: I understand. I have about<br/> 22 an hour-and-a-half left.<br/> 23 A Okay, no problem.<br/> 24 (Whereupon, the deposition</p> | <p style="text-align: right;">Page 132</p> <p style="text-align: center;">1 CERTIFICATE</p> <p>2<br/> 3 I, RENEE HELMAR, a Shorthand Reporter, and<br/> 4 Notary Public, certify that the foregoing is a true and<br/> 5 accurate transcript of the proceedings of DARRYL<br/> 6 MURRAY, who was first sworn by me at the time, place<br/> 7 and on the date herein before set forth.<br/> 8 I further certify that I am neither attorney,<br/> 9 nor counsel for, nor related to or employed by, any of<br/> 10 the parties to the action in which this deposition was<br/> 11 taken, and further that I am not a relative or employee<br/> 12 of any attorney or counsel employed in this action, nor<br/> 13 am I financially interested in this case.<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24</p> <p style="text-align: right;">Renee Helmar</p> <p style="text-align: right;">Shorthand Reporter</p> |
| <p style="text-align: right;">Page 131</p> <p>1 concluded at approximately 2:14<br/> 2 p.m.)<br/> 3<br/> 4<br/> 5<br/> 6<br/> 7<br/> 8<br/> 9<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24</p>   |   |

34 (Pages 130 to 132)

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
3                   - - - -

3       DARRYL MURRAY,                   : Civil Action  
   : NO. 05-4557

4                   Plaintiff,                   :

5                   vs                   :

6       ALLEN WEINSTEIN, Archivist       :  
      of the United States,           :  
7       National Archives and           :  
      Records Administration,        :  
8                   Defendant(s).       :

9                   - - - -

10                   Tuesday, November 28, 2006  
                  Philadelphia, Pennsylvania

11                   VOLUME II  
12                   - - - -

13                   Oral deposition of DARRYL MURRAY,  
14       taken pursuant to Notice, at the Office of the United  
15       States Attorney, 615 Chestnut Street, Suite 1250,  
16       Philadelphia, Pennsylvania, commencing at approximately  
17       11:00 a.m., on the above date, before Renee Helmar,  
18       Shorthand Reporter and Notary Public.  
19  
20  
21

22                   CLASS ACT COURT REPORTING AGENCY  
23       1420 Walnut Street               133 Gaither Drive  
         Suite 1212                   Suite H  
24       Philadelphia, PA 19103       Mt. Laurel, NJ 08054

|   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
|---|---|------|-----------------|--|-------------------|-----|-------|--|------------|--|---|--|---|--|---|--|----------------------------|--|-------------------------|--|---------------------------|--|---------------------------|--|---------------------------|--|-------------------------|--|-------------------------|--|---------------------------|--|---------------------------|--|---------------------|--|--------------------|--|---------------------|--|--------------------|--|--------------------|--|---------------------|--|---|
| <p style="text-align: right;">Page 134</p> <p>1 Darryl Murray, pro se<br/> 2 By: DARRYL MURRAY<br/> 3 112 West Champlost Avenue<br/> 4 Philadelphia, Pennsylvania 19120</p> <p>5 pro se for Plaintiff,<br/> 6 Darryl Murray</p> <p>7 United States Department of Justice<br/> 8 United States Attorney's Office<br/> 9 By: GERALD B. SULLIVAN, ESQUIRE<br/> 10 615 Chestnut Street<br/> 11 Suite 1250<br/> 12 Philadelphia, Pennsylvania 19106<br/> 13 Counsel for Defendants,<br/> 14 Allen Weinstein, Archivist of the<br/> 15 United States National Archives</p> <p>16 ALSO PRESENT:<br/> 17 John E. Davenport, Sr.</p>   | <p style="text-align: right;">Page 136</p> <p>1 (Whereupon, the deposition<br/> 2 commenced at 11:00 a.m.)</p> <p>3 ... Darryl Murray, residing at 112 West<br/> 4 Champlost Avenue, Philadelphia, Pennsylvania, having<br/> 5 been first duly sworn by a Notary Public within the<br/> 6 State of Pennsylvania, was examined and testified under<br/> 7 oath as follows...</p> <p>8 EXAMINATION</p> <p>9 BY MR. SULLIVAN:</p> <p>10 Q Mr. Murray, you understand that you are<br/> 11 still under oath now?</p> <p>12 A Yes.</p> <p>13 Q And are there any of my initial<br/> 14 instructions to you that you want me to go over<br/> 15 again, before we start today?</p> <p>16 A No, I am pretty straight.</p> <p>17 Q Okay.</p> <p>18 Mr. Murray, when we stopped a few<br/> 19 days ago, we were talking about some of your<br/> 20 postings that you had made in September and August<br/> 21 2004; correct?</p> <p>22 A Correct.</p> <p>23 Q Is it your testimony that you continued to<br/> 24 post materials at your workstation after</p> |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| <p style="text-align: right;">Page 135</p> <p>1 INDEX</p> <table border="0"> <tr> <td>2 WITNESS</td> <td>PAGE</td> </tr> <tr> <td>3 DARRYL MURRAY</td> <td></td> </tr> <tr> <td>4 By MR. Sullivan</td> <td>136</td> </tr> <tr> <td>5 ---</td> <td></td> </tr> <tr> <td>6 EXHIBITS</td> <td></td> </tr> <tr> <td>7</td> <td></td> </tr> <tr> <td>8</td> <td></td> </tr> <tr> <td>9</td> <td></td> </tr> <tr> <td>10 NUMBER DESCRIPTION PAGE</td> <td></td> </tr> <tr> <td>11 Murray-20 Letter 154</td> <td></td> </tr> <tr> <td>12 Murray-21 Document 156</td> <td></td> </tr> <tr> <td>13 Murray-22 Document 158</td> <td></td> </tr> <tr> <td>14 Murray-23 Document 167</td> <td></td> </tr> <tr> <td>15 Murray-24 Letter 182</td> <td></td> </tr> <tr> <td>16 Murray-25 Letter 183</td> <td></td> </tr> <tr> <td>17 Murray-26 Document 208</td> <td></td> </tr> <tr> <td>18 REQUEST FOR PRODUCTION</td> <td></td> </tr> <tr> <td>19 Page 195 Line 20</td> <td></td> </tr> <tr> <td>20 Page 249 Line 9</td> <td></td> </tr> <tr> <td>21 Page 249 Line 11</td> <td></td> </tr> <tr> <td>22 Page 252 Line 2</td> <td></td> </tr> <tr> <td>23 Page 262 Line 8</td> <td></td> </tr> <tr> <td>24 Page 262 Line 10</td> <td></td> </tr> </table> | 2 WITNESS   | PAGE | 3 DARRYL MURRAY |  | 4 By MR. Sullivan | 136 | 5 --- |  | 6 EXHIBITS |  | 7 |  | 8 |  | 9 |  | 10 NUMBER DESCRIPTION PAGE |  | 11 Murray-20 Letter 154 |  | 12 Murray-21 Document 156 |  | 13 Murray-22 Document 158 |  | 14 Murray-23 Document 167 |  | 15 Murray-24 Letter 182 |  | 16 Murray-25 Letter 183 |  | 17 Murray-26 Document 208 |  | 18 REQUEST FOR PRODUCTION |  | 19 Page 195 Line 20 |  | 20 Page 249 Line 9 |  | 21 Page 249 Line 11 |  | 22 Page 252 Line 2 |  | 23 Page 262 Line 8 |  | 24 Page 262 Line 10 |  | <p style="text-align: right;">Page 137</p> <p>1 August 17th, 2004, that's when you got the letter<br/> 2 regarding the August postings, because you felt that<br/> 3 only offensive subject matter was disallowed?</p> <p>4 A Correct.</p> <p>5 Q And you didn't feel what you were posting<br/> 6 was offensive?</p> <p>7 A Correct.</p> <p>8 Q Why did you, then, stop posting all<br/> 9 religious and racial content posting after the<br/> 10 August 17th, 2004 letter?</p> <p>11 A Just to make my life, and my supervisor's<br/> 12 life easier.</p> <p>13 Q Okay. Did anyone ever tell you that any<br/> 14 material that you deemed offensive was prohibited?</p> <p>15 A Did anyone ever tell me that I think --</p> <p>16 Q No, I'm sorry. Did anyone ever tell you<br/> 17 only material that you deemed was offensive,<br/> 18 prohibited?</p> <p>19 A No.</p> <p>20 Q So, who -- in whose view would material<br/> 21 have to be offensive to be prohibited, would it be<br/> 22 management; would it be coworkers; who would it be?</p> <p>23 A Have to be Catholics, from my<br/> 24 understanding.</p> |
| 2 WITNESS   | PAGE  |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 3 DARRYL MURRAY   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 4 By MR. Sullivan   | 136   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 5 ---   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 6 EXHIBITS  |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 7   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 8   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 9   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 10 NUMBER DESCRIPTION PAGE  |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 11 Murray-20 Letter 154   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 12 Murray-21 Document 156   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 13 Murray-22 Document 158   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 14 Murray-23 Document 167   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 15 Murray-24 Letter 182   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 16 Murray-25 Letter 183   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 17 Murray-26 Document 208   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 18 REQUEST FOR PRODUCTION   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 19 Page 195 Line 20   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 20 Page 249 Line 9  |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 21 Page 249 Line 11   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 22 Page 252 Line 2  |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 23 Page 262 Line 8  |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |
| 24 Page 262 Line 10   |   |      |                 |  |                   |     |       |  |            |  |   |  |   |  |   |  |                            |  |                         |  |                           |  |                           |  |                           |  |                         |  |                         |  |                           |  |                           |  |                     |  |                    |  |                     |  |                    |  |                    |  |                     |  |   |

2 (Pages 134 to 137)

1 Q It would have to be --  
 2 A Catholics and Christians.  
 3 Q -- perceived as offensive to Catholics?  
 4 A Catholics.  
 5 Q Catholic coworkers, Catholic management,  
 6 who?  
 7 A Catholics in general.  
 8 Q Okay. After you got the August 17th, 2004  
 9 letter, you thought that that letter stated that you  
 10 were prohibited from posting certain sorts of  
 11 material if it would be offensive to Catholics in  
 12 general?  
 13 A No. When I got the 2004 letter, I thought  
 14 it was stemming from the 1995 letter which involved  
 15 Catholics, so I just, kind of, thought it was a  
 16 continuation of the same, but it didn't. The letter  
 17 on November the -- in 2004 didn't, specifically, say  
 18 it, but I assumed it was in reference to 1995.  
 19 Q So you were saying that you interpreted  
 20 the August 17th, 2004 letter as banning you from  
 21 posting material with religious, political, racial,  
 22 disparaging remarks, comments only that would be  
 23 offensive to Catholics in general?  
 24 A Yes.

1 Q And did anyone ever tell you that the  
 2 letter was to be so limited?  
 3 A No.  
 4 Q In your view, what type of material would  
 5 be offensive to Catholics in general, and when you  
 6 say Catholics, do you mean only Christians who are  
 7 Catholics, or other Christians as well?  
 8 A No, by me being friends with the  
 9 Catholics, I thought that it had to be offensive to  
 10 the Catholic hierarchy, not actually the Catholic  
 11 people, but the institution of Catholicism.  
 12 Q You are referring, specifically, to the  
 13 Catholic church, not to Protestants?  
 14 A Right.  
 15 Q Your understanding of what was prohibited  
 16 under the August 17th, 2004 letter was what type of  
 17 offensive material then?  
 18 A I'm sorry, just repeat that.  
 19 Q In your view, what type of material would  
 20 have been banned by the August 17th, 2004 letter  
 21 that would be offensive to Catholics?  
 22 A Again, going back to '95, anything that  
 23 would shed light on the Catholic church involvement  
 24 in slavery, because that was what the 1995 issue was

1 mainly about.  
 2 Q Why, then, in your view would the August  
 3 17th, 2004 letter ban you from posting political  
 4 statements?  
 5 A Well, the Catholic church is also a  
 6 political institution.  
 7 Q And you never discussed your view that the  
 8 ban was just on material offensive to Catholics with  
 9 anyone?  
 10 A No, like I said, I had highlighted and  
 11 drew arrows on what I was going to discuss with  
 12 Mr. McEvoy, just the types of issues that you are  
 13 bringing up now, because I didn't see how they were  
 14 offensive, but they never interviewed me or never  
 15 got around to discuss it with me.  
 16 Q So you never approached Mr. McEvoy?  
 17 A Never had time, no.  
 18 Q And you, then, went ahead and posted new  
 19 materials in September?  
 20 A Now, in September I didn't think anything  
 21 up there had to do with racially offensive -- it was  
 22 just offensive, you know, you didn't think that it  
 23 had anything to do with the August 16th letter.  
 24 Q Did you ever discuss any of your

1 interpretations of the letter, or your concerns with  
 2 Ms. Washington?  
 3 A No, she didn't quite understand what the  
 4 problem was either, and just like I said, if someone  
 5 has power over you and harassing you, the best thing  
 6 to do is try to appease them in the best way that  
 7 you can.  
 8 Q Now, if your interpretation was wrong  
 9 about what the August 17th, 2004 letter intended to  
 10 prohibit, if it wasn't intended to be limited to  
 11 just material that would be offensive to Catholics,  
 12 if it was intended to include any religious,  
 13 political, racial, disparaging remark content that  
 14 would be offensive to anybody in management, or to  
 15 coworkers at the Federal Records Center, if that is  
 16 the proper interpretation that the interpretation of  
 17 management meant, do you agree that some of the  
 18 content would fall about the August 17th, 2004  
 19 letter?  
 20 A No, I don't think so. Like I said, my  
 21 former supervisor, John McGee is management, and he  
 22 would definitely, you know, tell me if something was  
 23 offensive to management. Well, it would be just one  
 24 person in management feels one way, and everybody

1 else ignored it like I perceived it.

2 It is my intention that nothing up  
3 there -- just this whole incident involves  
4 harassment.

5 Q But your answer is that, even if your  
6 interpretation of what management intended by the  
7 August 17th, 2004 letter is wrong, and that the  
8 prohibition was broader than you understood it, you  
9 still don't see the content of any of your postings  
10 in August and September being of a nature that would  
11 be offensive to any of your coworkers or management?

12 A Correct.

13 Q Do you understand after you removed the  
14 postings on August 17th, 2004 that because you had  
15 removed them, you were not going to be disciplined  
16 for those postings unless you posted new information  
17 that was prohibited under the August 17th --

18 A Yes, I understand that.

19 Q So if that was the case, if you were not  
20 going to be disciplined for your August 17th posting  
21 unless you posted some new materials that were in  
22 violation of the August 17th letter, how was it that  
23 there was religious discrimination against you based  
24 on the August 17th, 2004 postings?

1 A I am basing it on harassment, because I  
2 think, again -- the court, when I first started the  
3 lawsuit, that it is harassment with religious  
4 overtones. I think that the fact that I am Islamic  
5 is the origin of the others. I think if I were a  
6 member of any of the Christian denominations, it  
7 wouldn't have been an issue, but being Islamic, and  
8 they are discriminating saying, you don't have a  
9 right.

10 See, in reality it doesn't have  
11 anything to do with race, religion or politics, that  
12 is just a prefix that management was using to try to  
13 enforce their will on me, or something. So, it is  
14 -- it is kind of hard to understand where religious  
15 discrimination -- how anything comes into play in  
16 this case, except that it just boils down to  
17 harassment.

18 Q So your view is that, at its core, what  
19 happened to you, was just harassment as a person  
20 without there being a religious basis, or a racial  
21 basis?

22 A Well, the basis is -- would be Islam. You  
23 can harass a person without discriminating against  
24 them, and then you can, also, harass them by

1 discriminating against a person.

2 My problem with the National Archives  
3 with one or two individuals is purely personal, they  
4 just personally don't like me as a person. I think  
5 it is our Catholics, they feel the same way.

6 Q Who are those people?

7 A John McEvoy and Mitchell Buffone,  
8 exclusively.

9 Q But you believe the main reason why the  
10 action that was taken against you was for personal  
11 reasons, that these individuals didn't like you?

12 A More so. More so.

13 Q More than for religion or race?

14 A Yes.

15 Q Okay.

16 I want to turn to what happened on  
17 September 16th, 2004, let's just take a second here.

18 Tell me what happened after the  
19 postings were discovered at your work station on  
20 September 16th, 2004; tell me what happened that day  
21 at the workplace?

22 A It is my understanding that John McEvoy  
23 and David Roland, evidently, came into the building  
24 prior to normal operating hours, probably between 5

1 and 6, and discovered the items on my desk, and felt  
2 that there was something threatening, and by the  
3 time that I arrived at the building, I was given the  
4 letter of September 16th. Turned in some items, and  
5 I signed it, agreeing with it only that I hadn't  
6 been charged with anything. It was just, you know,  
7 doing an investigating -- like I said before, I  
8 assumed that it had something to do with Hong Diep.

9 Q So that was 5 or 6 a.m. in the morning --

10 A Yes.

11 Q -- before you arrived for work?

12 A So, what happens the rest of the day,  
13 after I left --

14 Q Tell me what happened while you were  
15 there, to you; what did you do; what did people say  
16 to you; where were you?

17 A When I arrived in the building about ten  
18 minutes to six, took my bags into where I usually  
19 pick up my work at. My supervisor, Liz Washington,  
20 approached me and said John McEvoy wants to see you  
21 in his office. I walked her into his office; we sat  
22 down; he handed me the paper; I read it; I was  
23 waiting for him to start discussing it, and he just  
24 continued on like he was working on something else;

Page 146

1 I signed it and I looked at my supervisor and just  
 2 turned in my badge and everything. Went out to my  
 3 locker and cleaned that out. I think that I told my  
 4 supervisor it will be straightened out, I should be  
 5 back real soon.  
 6 Q Your supervisor, Ms. Washington?  
 7 A Miss Washington, and I noticed Dan Bedesen  
 8 came up near the front door, just to watch and see  
 9 what I was doing.  
 10 Q And Dan Bedesen at the time was, what?  
 11 A Assistant director.  
 12 Q You saw him, then what happened?  
 13 A I handed my supervisor, Liz Washington,  
 14 the keys to my locker, told her it would be okay,  
 15 things will get straightened out; I should be back  
 16 soon, and just got in the car, went home, and fell  
 17 asleep watching TV.  
 18 Q Did Mr. McEvoy say anything to you beyond  
 19 what you already said?  
 20 A No.  
 21 Q Did Mr. Bedesen say anything to you beyond  
 22 -- well you said he didn't say anything to you that  
 23 day?  
 24 A He didn't say anything.

Page 147

1 Q Did Ms. Washington say anything to you  
 2 that day beyond what you already told us?  
 3 A No.  
 4 Q Did you talk to any other folks in  
 5 management, or any coworkers before you left that  
 6 day?  
 7 A No.  
 8 Q I am showing you what has been previously  
 9 marked Murray-14, the September 16th, 2004 letter  
 10 from John McEvoy to you, signed by John McEvoy, and  
 11 then also signed by you at the bottom; is that the  
 12 letter that you are referring to?  
 13 A Yes.  
 14 Q And that states you will be on  
 15 administrative leave until further notice; correct?  
 16 A Yes.  
 17 Q That means that you will be paid your  
 18 regular salary until notice; correct?  
 19 A Correct.  
 20 Q And at this time, you should turn in your  
 21 NARA personal identification badge and any NARA  
 22 property that you have in your possession?  
 23 A Correct.  
 24 Q And you did do that?

Page 148

1 A Yes.  
 2 Q It says, "In order to remain in the paid  
 3 status, you are ordered to call me, McEvoy, every  
 4 Wednesday at 10 a.m. If I am not available when you  
 5 call, you must leave a telephone number where you  
 6 could be reached"; correct?  
 7 A Correct.  
 8 Q And then you sign it, that letter, that  
 9 you had read it and understood it?  
 10 A Correct.  
 11 Q Were you told anything about whether you  
 12 were permitted to return to the property while you  
 13 were on leave?  
 14 A No.  
 15 Q Did you have any beliefs at that time  
 16 about your ability about whether it was okay for you  
 17 to return to the property?  
 18 A No, I hadn't made any plans.  
 19 Q Now, before we turn from the issues of the  
 20 postings onto the next stage in the case, had you  
 21 observed while you were still working at the Federal  
 22 Detention Center (sic), any postings --  
 23 A Federal Detention Center?  
 24 Q Excuse me, while you were working at the

Page 149

1 Federal Records Center, any postings that were  
 2 similar to yours in terms of the political content?  
 3 A No.  
 4 Q Now, any that were similar to your  
 5 postings in August or September of 2004 in terms of  
 6 their political content, and your answer to that is?  
 7 A No.  
 8 Q Had you, during that time or any time,  
 9 observed at the Records Center, any postings that  
 10 were similar in religious content to the postings  
 11 that you posted in August 2004, that you say have  
 12 religious content?  
 13 A Only someone's screensaver had something  
 14 Jesus and posting similar, like Allahu, that means  
 15 God is good or great, and other people had God is  
 16 good or great in English. That's about it.  
 17 Q So, statements about their faith?  
 18 A (Witness shakes head.)  
 19 Q Did you, at any time, while you were at  
 20 the Federal Records Center observe any postings by  
 21 any coworkers or managers that made disparaging  
 22 remarks toward any coworkers?  
 23 A If it did, I didn't see it, or if I did  
 24 see it, I wouldn't know it was disparaging unless it

5 (Pages 146 to 149)

|   |   |
|---|---|
| <p style="text-align: right;">Page 150</p> <p>1 had someone's name attached to it, something mocking<br/> 2 someone's weight, or whatever, unless it has a<br/> 3 person's name attached.<br/> 4 Q Do you recall any comments that did not<br/> 5 have a person's name attached that was disparaging<br/> 6 toward coworkers?<br/> 7 A No.<br/> 8 Q During your time at the Federal Detention<br/> 9 Center (sic), did you see anybody else post<br/> 10 anything, any other postings -- did I say Detention<br/> 11 Center?<br/> 12 A Um-huh.<br/> 13 Q I'm sorry, I have that case fresh in my<br/> 14 mind, Federal Records Center, did you see anybody<br/> 15 else post any material that had racial content that<br/> 16 was similar to the material that you posted in<br/> 17 August or September 2004 that had racial comment?<br/> 18 A No.<br/> 19 Q Have you told -- is there anybody's<br/> 20 posting at the Federal Records Center in any of the<br/> 21 years while you were there, that had religious,<br/> 22 racial, political, disparaging remark content that<br/> 23 you think was similar to what you posted?<br/> 24 A Not that I can really recall. The only</p> | <p style="text-align: right;">Page 152</p> <p>1 there was a depiction of a swastika in the magazine;<br/> 2 is that correct?<br/> 3 A Now, I -- some of the students, not<br/> 4 students, some of the employees who come through in<br/> 5 the summer will use other people's desk, so I can't<br/> 6 really say who the magazine belonged to; I can't<br/> 7 really say there was anything offensive in it, I<br/> 8 didn't read it.<br/> 9 Q Couldn't the magazine have been critical<br/> 10 of the Holocaust?<br/> 11 A Could be.<br/> 12 Q You don't know?<br/> 13 A No.<br/> 14 Q Is there anybody that you believe was<br/> 15 treated more favorably than you, who posted<br/> 16 materials with a religious, racial, political,<br/> 17 disparaging remark content that you believe is<br/> 18 similar to the sort of material you posted, that you<br/> 19 were required to take down?<br/> 20 A Only Mitchell Buffone was good for posting<br/> 21 John Gotti, Joey Merlino, Mafia type figures from<br/> 22 magazines and newspaper articles, not only on his<br/> 23 desk, but he would put them on a government posting<br/> 24 board where you could stick those pins into it, he</p> |
| <p style="text-align: right;">Page 151</p> <p>1 thing that ever disturbed me and a few other people<br/> 2 was the depiction of the Archives mole. Other than<br/> 3 that, I can't think of any.<br/> 4 Q And you referred in the past to the<br/> 5 picture of John Gotti that Mr. Buffone had?<br/> 6 A Yes.<br/> 7 Q Did Mr. Buffone remove that picture when<br/> 8 he was told to do so?<br/> 9 A I don't have any knowledge of it.<br/> 10 Q Do you have any knowledge that at some<br/> 11 point it was removed?<br/> 12 A I think -- reading the EEOC documents, I<br/> 13 believe some time after I left that it was removed.<br/> 14 Q After you left?<br/> 15 A After I was placed on administrative<br/> 16 leave.<br/> 17 Q Do you know whether after Mr. Buffone took<br/> 18 down the picture of John Gotti, he put it back up,<br/> 19 or any similar material?<br/> 20 A I don't know.<br/> 21 Q And you also referred to a magazine on a<br/> 22 Jewish employee's desk that you referred to in your<br/> 23 Affidavit and you testified to during your previous<br/> 24 deposition testimony that you said that you thought</p>  | <p style="text-align: right;">Page 153</p> <p>1 would put those articles up there.<br/> 2 Q Where, at his desk?<br/> 3 A They were right in back of his desk,<br/> 4 overtop of, or near the Xerox machine.<br/> 5 Q When did he do that?<br/> 6 A Over the years since I've known him.<br/> 7 Q Do you recall him posting anything of a<br/> 8 religious content?<br/> 9 A No.<br/> 10 Q And you were not aware of him posting<br/> 11 those materials after he was told to take them down?<br/> 12 A No.<br/> 13 Q No, you are not aware?<br/> 14 A No, I am not aware.<br/> 15 Q Okay. I want to turn to September 22nd,<br/> 16 2004, did you get a call from Warren Hammond while<br/> 17 you were on administrative leave beginning September<br/> 18 16th, 2004?<br/> 19 A Yes.<br/> 20 Q You got that on your cell phone?<br/> 21 A On the cell phone.<br/> 22 Q And is Warren Hammond's nickname Skip?<br/> 23 A Yes.<br/> 24 Q When did he leave that message for you?</p>  |

6 (Pages 150 to 153)

1 A It would have to have been sometime  
2 between the September 16th, 2004, and  
3 September 22nd, somewhere in between then.  
4 Q Was it before the 22nd?  
5 A I believe it was.  
6 Q Mr. Murray, I am going to mark as  
7 Murray-20, a document that I believe you attached to  
8 your Affidavit in this case, the EEO level, and if  
9 you could take a look at it.  
10 A (Witness complies.)  
11 (Whereupon, a document was  
12 marked for identification as  
13 Exhibit Murray-20.)  
14 THE WITNESS: I recognize it.  
15 BY MR. SULLIVAN:  
16 Q Is it a reference to a customer -- it is a  
17 Sprint PCS cell phone call log; is that correct?  
18 A Correct.  
19 Q And there is a reference to a customer,  
20 Mrs. Brenda J. Murray, is that your mother?  
21 A Yes.  
22 Q And this is the cell phone that you use?  
23 A Yes.  
24 Q Do you see Mr. Hammond's number; do you

1 know what Mr. Hammond's number was?  
2 A No.  
3 Q Is this your handwriting on the document?  
4 A Yes.  
5 Q Did you annotate here, anywhere which call  
6 was from Mr. Hammond?  
7 A No.  
8 Q And you can't tell from looking at this  
9 which one is from him?  
10 A No, I -- what I was going by was, when I  
11 checked the E-mail, it comes up on here as incoming  
12 I believe, but I know when I answer it -- when I  
13 listen to it, it tells you that they -- I think that  
14 the call comes in --  
15 Q Okay, let me ask you this, does this log  
16 reflect, anywhere, a call that you made to  
17 Mr. Hammond?  
18 A No.  
19 Q It doesn't?  
20 A No.  
21 Q What did Mr. Hammond say in his message?  
22 A Give him a call. Just calling to see how  
23 you are doing; don't know what's going on; take  
24 care; give me a call.

1 Q And when did you first hear that message?  
2 A On September 22nd, about 11:00 a.m.  
3 Q Okay. I want to jump backwards a little  
4 bit and talk about how your day began on September  
5 22nd, 2004, and to sort of set that up, I want to go  
6 through a few letters and statements with you; the  
7 first will be a letter that David Roland sent to you  
8 on November 9th, 2004; I will mark it as Murray-21.  
9 (Whereupon, a document was  
10 marked for identification as  
11 Exhibit Murray-21.)  
12 BY MR. SULLIVAN:  
13 Q Mr. Murray, this is a letter that  
14 Mr. Roland sent to you, again, on November 9th,  
15 2004, and if you could turn to Page 5, Mr. Roland  
16 states, "On September 22nd you left a message for  
17 John McEvoy at 9:58 a.m. as instructed for remaining  
18 in a paid administrative leave status." Again, you  
19 testified you understood that you were to call  
20 Mr. McEvoy each Wednesday, around 10:00 while you  
21 were on administrative leave; correct?  
22 A Correct.  
23 Q And Mr. Roland stated that during that  
24 call you stated, quote, "Hey Johnny, it's ah, this

1 is, ah, Darryl Murray calling, ah, the paper said to  
2 call you every Wednesday at 10:00, ah, I'm having  
3 some problems with my passport, trying to get a  
4 flight back, but you can call me, ah, on  
5 215-681-8924. There might be a little disturbance  
6 on the plane, but I still should be able to still  
7 get a signal. Talk to you later Mr. McEvoy."  
8 Mr. Roland proceeded to say, quote,  
9 "During the call to Ms. Washington at 10:38 a.m. you  
10 specifically alluded to leaving Mr. McEvoy a  
11 message and stated that you had taken 'a little  
12 flight overseas,' but were experiencing some  
13 'passport problems,' and that you 'should be back in  
14 town by Friday' (presumably the 24th) once you got  
15 your passport issues resolved." And I will have  
16 your comment on this in just a second, but you  
17 received this letter from Mr. Roland; correct?  
18 A Correct.  
19 Q I am going to turn, now, to your Affidavit  
20 at Page 14, your EEO Affidavit, and I will show you  
21 in a minute, this is Murray-17, I believe, and,  
22 again, this is your Affidavit, Mr. Murray, from the  
23 EEO proceeding?  
24 A Correct.

1 Q And, again, I am showing you Murray-17,  
2 and you state there, and you can tell me if I am  
3 correct or not in stating what you state there, "I  
4 was told to call Mr. McEvoy to report in each  
5 Wednesday morning while I was out on administrative  
6 leave. I made one call on the morning of  
7 September 22nd, 2004 just after I woke up while a  
8 friend was there. I wanted my female companion to  
9 hear me complaining about my passport problems; to  
10 get her off my back about flying across the Atlantic  
11 for a vacation while I was on an administrative  
12 leave. I am terrified about planes and flying." Do  
13 you state that in your EEO Affidavit?

14 A Yes.

15 Q And I just want to show you one more  
16 statement of yours.

17 (Whereupon, a brief discussion  
18 was held off the record.)

19 (Whereupon, a document was  
20 marked for identification as  
21 Exhibit Murray-22.)

22 BY MR. SULLIVAN:

23 Q Mr. Murray, I am showing you what I am  
24 going to mark as Murray-22, this is an EEO statement

1 that you made on November 15th, 2004; correct?

2 A Um-hum. Yes.

3 Q And is this your handwriting on the  
4 document?

5 A Yes.

6 Q On Pages 1 and 2, and I only gave you two  
7 pages, but it states, beginning on the second  
8 paragraph on Page 1, "Since my divorce 11 years ago,  
9 I have been dating a lot of Hispanic and Middle  
10 Eastern women. My lady friends have been nagging me  
11 for quite some time, traveling to their homeland in  
12 Puerto Rico, Dominican Republic, Jordan and Syria.  
13 I don't have any intentions on going to any of those  
14 places, but I can't tell my lady friends that.

15 I wanted one of my friends to hear me  
16 discussing passport problems on the phone when she  
17 discovered I was going to be off from work for  
18 awhile.

19 You can tell from the verbatim  
20 transcript that it sounds like I am half asleep, on  
21 drugs, or making up the story as I was going along.

22 My girlfriend woke me up to make my  
23 designated 10:00 a.m. call into Mr. John McEvoy to  
24 continue receiving my paycheck.

1 I don't remember exactly what I said  
2 on the message, but I know I did not threaten  
3 anyone. I also had no intentions on visiting NARA  
4 that day." Is that a correct summary of what you  
5 state in this document?

6 A Yes.

7 Q And you wrote that?

8 A Yes.

9 Q And I should say, in our supplemental  
10 production of documents to you, we are going to be  
11 producing to you a copy of the voice recording that  
12 Mr. Roland refers to. You will have that by next  
13 week.

14 Mr. Murray, is it correct that you  
15 did leave a message for Mr. McEvoy on the morning of  
16 September 22nd, 2004, on or before 10:00 a.m.?

17 A Correct.

18 Q And wasn't it, in fact, the case that you  
19 had a girlfriend that wanted you to go to her  
20 country while she (sic) was on leave, but you didn't  
21 want to go?

22 A Correct.

23 Q And so did you manufacture the white lie  
24 about a passport problem because of your personal

1 situation?

2 A Correct.

3 Q Okay, so you told some white lies in the  
4 voice messages for personal reasons?

5 A Correct.

6 Q So what you stated to Mr. McEvoy and Ms.  
7 Washington in those messages was not entirely true;  
8 is that correct?

9 A Correct.

10 Q And is this -- are these statements  
11 accurate representations of your intentions in what  
12 you stated?

13 A Yes.

14 Q I want to talk about -- by the way, in  
15 your one statement, November 15th, 2004, you say  
16 that you can tell from the transcript that it sounds  
17 like I am half asleep on drugs when making up the  
18 story of what's going on; were you on drugs at the  
19 time?

20 A My arthritis medication.

21 Q Anything else?

22 A No.

23 Q What happened next in your day, after you  
24 made this call?

1 A My friend had a doctor's appointment.  
 2 Q What is your friend's name?  
 3 A Jihada Mohammed.  
 4 Q Can you spell that?  
 5 A J-I-H-A-D-A Mohammed.  
 6 Q And Jihada is a female?  
 7 A A female.  
 8 Q How old is she?  
 9 A Now, 29 or 30.  
 10 Q Could you excuse me for a second.  
 11 (Whereupon, a brief recess was  
 12 taken.)  
 13 BY MR. SULLIVAN:  
 14 Q So you were telling me about what happened  
 15 during your day after you made the call in the  
 16 morning, go ahead and tell me.  
 17 A My friend had got up and took her daughter  
 18 to school and came back and said that she had a  
 19 doctor's appointment up on Grant Avenue next to 55th  
 20 Street.  
 21 Q When you say she, your daughter or her  
 22 friend?  
 23 A The friend. And her son is a very lively  
 24 little fellow, and I didn't want to be caught with

1 having to watch him for two or three hours, so I  
 2 just decided to go along with them. And I ended up  
 3 getting stuck with him because he fell asleep in the  
 4 car.  
 5 Q The son is how old?  
 6 A He is five now, he was three at the time.  
 7 Q So, whose car were you in?  
 8 A Her car.  
 9 Q What color was the car?  
 10 A White.  
 11 Q And you went to a doctor's appointment  
 12 then?  
 13 A Yes.  
 14 Q And it was for her?  
 15 A For her.  
 16 Q And she went into the doctor's office?  
 17 A Yes.  
 18 Q Did you go in with her?  
 19 A No, I stayed in the parking lot.  
 20 Q Was the son already asleep?  
 21 A Um-hum.  
 22 Q Then happened?  
 23 A I was trying to think about where I could  
 24 go and spend some time -- in the mall or something

1 and I said, no, because he is asleep. And then I  
 2 checked my cell phone, and there was a couple of  
 3 messages on there; I hadn't answered it in a couple  
 4 of days, and then when I got to Skip's phone  
 5 message, I said -- well, I looked at my watch, it is  
 6 just about lunchtime, maybe I will swing past there  
 7 for a minute and let him and my other friends know  
 8 that, ah, I am okay; things are fine; I am still  
 9 getting my full pay, so I am not financially  
 10 strapped or anything, and then I called Vanessa, who  
 11 is operating as a receptionist that morning --  
 12 Q Receptionist where?  
 13 A At the National Archives, the Records  
 14 Center.  
 15 Q Vanessa Adams?  
 16 A Vanessa Adams.  
 17 And asked her to page Skip to tell  
 18 him to meet me out front in about 5 or 10 minutes, I  
 19 will stop past.  
 20 Q And when you say lunchtime, you mean  
 21 lunchtime at the Federal Records Center?  
 22 A Lunchtime at the Federal Records Center.  
 23 Q Which would be when; when is their lunch  
 24 hour?

1 A 11:15 to 11:45, and people who come in  
 2 later, if they want to, can take a lunch between 12  
 3 and 12:30.  
 4 Q Okay, but it was what time that you made  
 5 that call to Vanessa Adams?  
 6 A 11, 11:05.  
 7 Q And directing your attention back to  
 8 Murry- 20, which is the phone log, does this log  
 9 reflect your call to Vanessa Adams?  
 10 A Yes.  
 11 Q And which call was that; which entry  
 12 number, is there 40 to 80 on this page?  
 13 A Number 53, I believe.  
 14 Q 53 is your call to Vanessa Adams?  
 15 A Um-hum.  
 16 Q And that would be at 11:08 a.m.; is that  
 17 correct?  
 18 A Correct. And number 52 was me checking my  
 19 voice mail.  
 20 Q At 10:55 a.m.?  
 21 A 10:55.  
 22 Q So is that when you would have picked up  
 23 Mr. Hammond's message?  
 24 A Yes.

|  |  |
|--|--|
| <p style="text-align: right;">Page 166</p> <p>1 Q Okay. So you called Ms. Adams and she<br/>2 told you what?<br/>3 A She paged him, and --<br/>4 Q That she would page him?<br/>5 A Yep.<br/>6 Q And no further discussions?<br/>7 A No.<br/>8 Q Okay. Then what happened?<br/>9 A I drove there, I drove to the Federal<br/>10 Records Center, pulled up near the front door --<br/>11 Q You drove, was anybody with you?<br/>12 A The three-year-old child.<br/>13 Q Was anybody else with you?<br/>14 A No.<br/>15 Q Was your friend with you?<br/>16 A No, she is in the doctor's office.<br/>17 (Whereupon, a brief discussion<br/>18 was held off the record.)<br/>19 BY MR. SULLIVAN:<br/>20 Q Mr. Murray, I am going to show you a<br/>21 document that you submitted to Judge Shapiro in this<br/>22 case, it is your style, it is a Statement of Facts;<br/>23 it is a 15 page document, and I will mark it as<br/>24 Murray-23.</p>   | <p style="text-align: right;">Page 168</p> <p>1 passenger with you?<br/>2 A Correct -- not correct.<br/>3 Q Are you sure?<br/>4 A Yes, she was still inside.<br/>5 Q Okay. You said that you came to the<br/>6 workplace, you were in the white car; correct?<br/>7 A Correct.<br/>8 Q Did you park your car when you arrived?<br/>9 A No. I put it in park, but I didn't pull<br/>10 up into a parking spot, thought Skip would be coming<br/>11 out and I would only be there --<br/>12 Q Mr. Hammond?<br/>13 A Mr. Hammond. Maybe a hot minute or so, so<br/>14 I didn't pull into a divided line parking spot.<br/>15 Q Where did you pull up the car, or where<br/>16 did you put the car?<br/>17 A Perpendicular where the car was --<br/>18 perpendicular to the front door, it is about 30 feet<br/>19 from the door.<br/>20 Q When you say perpendicular -- why don't<br/>21 we, without marking it, just go off the record for a<br/>22 second so you could draw me a little diagram.<br/>23 (Whereupon, a brief discussion<br/>24 was held off the record.)</p> |
| <p style="text-align: right;">Page 167</p> <p>1 (Whereupon, a document was<br/>2 marked for identification as<br/>3 Exhibit Murray-23.)<br/>4 BY MR. SULLIVAN:<br/>5 Q Do you recognize this document?<br/>6 A Yes.<br/>7 Q And is it something that you submitted to<br/>8 Judge Shapiro this year?<br/>9 A Yes.<br/>10 Q And if you could turn to Page 8, the 4th<br/>11 paragraph, it states, "On September 22, 2004 I was<br/>12 in the vicinity of NARA around lunchtime, and I<br/>13 stopped by to see inquiring coworkers concerned<br/>14 about my whereabouts. I had a female companion and<br/>15 her three-year-old son as passengers and only<br/>16 expected to be there a hot minute." Is that what it<br/>17 states?<br/>18 A Yes.<br/>19 Q Why did you state here that you had a<br/>20 female companion with you as a passenger when you<br/>21 went to the workplace?<br/>22 A I had been referring to when I left out of<br/>23 the house, must have been.<br/>24 Q So it is not correct that you had a female</p> | <p style="text-align: right;">Page 169</p> <p>1 BY MR. SULLIVAN:<br/>2 Q Mr. Murray, so is it your testimony that<br/>3 the front of your car was facing the building?<br/>4 A The front of it was facing the front gate<br/>5 of it, the side of my door, the side of the<br/>6 passenger door was parallel to the building<br/>7 (indicating).<br/>8 Q But the front windshield was looking<br/>9 directly into the Federal Records Center?<br/>10 A No, the front windshield was facing away.<br/>11 Q Let's go off the record.<br/>12 (Whereupon, a brief discussion<br/>13 was held off the record.)<br/>14 BY MR. SULLIVAN:<br/>15 Q Mr. Murray, is it true that at the front<br/>16 of the Federal Records Center there is a little<br/>17 vestibule with two doors in it?<br/>18 A Yes.<br/>19 Q And there is one door on the left, and one<br/>20 door on the right as you are approaching the<br/>21 building?<br/>22 A Correct.<br/>23 Q Was your car right outside of that little<br/>24 vestibule?</p>  |

1 A About 30 feet from it, up a little past  
 2 it, not directly -- if you exited my car, you would  
 3 have to go up on an angle to get back. It would be  
 4 a 30-degree angle.  
 5 Q And your car was parallel to the front of  
 6 the building?  
 7 A Right.  
 8 Q And the front of the car was facing the  
 9 front entrance gate to the Records Center?  
 10 A Correct.  
 11 Q So the passenger's side window would be on  
 12 the side of the building?  
 13 A Correct.  
 14 Q And the driver's window would be facing  
 15 away from the building?  
 16 A Right.  
 17 Q Did you remain in your car the entire time  
 18 that you were at the Federal Records Center that  
 19 day?  
 20 A Yes.  
 21 Q And state, again, why you are there?  
 22 A Just going to notify Warren Hammond, Skip,  
 23 and my other friends that I was all right, that I  
 24 was on administrative leave, and hope to be back

1 soon.  
 2 Q How soon after you made the call to  
 3 Vanessa Adams did you arrive?  
 4 A That is about a 10 minute drive.  
 5 Q When you arrived, did the lunch hour  
 6 already begun?  
 7 A People were coming out of the front door  
 8 and the side cafeteria door.  
 9 Q And that would be 11:15 lunch hour -- half  
 10 hour?  
 11 A Correct.  
 12 Q Without telling me the content of any  
 13 conversations that you had with anybody, I just want  
 14 to get more context here, what happened next, and,  
 15 again, don't tell me the conversations that you had,  
 16 but, who did you see; what did you do? The child  
 17 was still asleep in the car?  
 18 A The child was still asleep.  
 19 Q In the back seat?  
 20 A Back seat, in a car seat, and by the time  
 21 that I put it in park and took my foot off the  
 22 brake, James Hughes emerged from the building and  
 23 stood right in front of the front door.  
 24 Q The car was running at the time?

1 A Yes.  
 2 Q When you say, Mr. Hughes was at the front  
 3 door, there is two doors, again, one would have been  
 4 facing the rear of your car, and one would have been  
 5 facing the front; is that correct?  
 6 A I think that I understand what you are  
 7 saying, there is a double door at the front, and  
 8 once you go through that, then there is another  
 9 entrance side door, I think that is what you are  
 10 trying to get at, and I hope that we are talking  
 11 about the front double doors.  
 12 Q And where did you see him?  
 13 A Standing right at the front double doors.  
 14 Q Did he, then, come out of the building?  
 15 A Yeah, he had to be out of the building to  
 16 be coming through that door.  
 17 Q Oh, you are saying that he is outside the  
 18 door?  
 19 A Yeah, outside the door.  
 20 Q Had you talked to anybody else before you  
 21 saw him?  
 22 A No.  
 23 Q Had you seen any of your coworkers before  
 24 you saw him?

1 A No.  
 2 Q What happened next, and don't tell me any  
 3 conversations, I just want to know what happened  
 4 next, you can tell me if there was a conversation if  
 5 that is what happened next.  
 6 A There was -- I made a statement to him.  
 7 Q To Officer --  
 8 A Officer Hughes, and he went back into the  
 9 building, and while he was away going back into the  
 10 building, that's when coworkers started coming out  
 11 of the building.  
 12 Q Okay, and did you talk to any of those  
 13 coworkers?  
 14 A I talked to Irene Jones, and I spoke to  
 15 Larry -- well, I waved to Larry.  
 16 Q Larry who?  
 17 A I don't know his last name, he is  
 18 relatively new.  
 19 Q Coworker?  
 20 A Coworker.  
 21 Q But you spoke to Miss Jones?  
 22 A Yes.  
 23 Q So you didn't see Miss Jones, or speak to  
 24 her until Security Officer Hughes went back into the

1 building?  
 2 A Correct.  
 3 Q And before he went back into the building,  
 4 you had made a statement to him?  
 5 A Correct.  
 6 Q Had he made a statement to you?  
 7 A No.  
 8 Q When did you first see Miss Jones, where  
 9 was she?  
 10 A She was exiting the front of the doors.  
 11 Q And then what did she do?  
 12 A Walked over to my car.  
 13 Q Where did she walk -- which part of your  
 14 car?  
 15 A She came over to the passenger's side rear  
 16 window.  
 17 Q Rear window; was the window up or down?  
 18 A Might have been half-way up. Might have  
 19 been.  
 20 Q Was it down -- do you know for sure  
 21 whether it was down at all?  
 22 A For sure, I don't know.  
 23 Q Were any of your windows down at the time?  
 24 A The front two windows, driver and

1 passenger side were down.  
 2 Q Are you sure about that?  
 3 A Yeah.  
 4 Q She went to the side, the passenger side  
 5 rear, and then what did she do; don't tell me the  
 6 content of any statement yet.  
 7 A She questioned me about the little boy.  
 8 Q The little boy?  
 9 A Yes.  
 10 Q Did you have a discussion about that?  
 11 A Yes.  
 12 Q Did she remain at the rear passenger  
 13 window during that discussion?  
 14 A Yes.  
 15 Q And then where did she go, or what was the  
 16 next move?  
 17 A That's when James Hughes re-emerged from  
 18 the building the second time.  
 19 Q And where did he go when he re-emerged?  
 20 A He just stuck his head out of the double  
 21 doors.  
 22 Q Were you able to hear him when he came  
 23 out?  
 24 A Yes.

1 Q Did he ever re-emerge beyond just putting  
 2 his head out?  
 3 A No.  
 4 Q And where was Miss Jones when he did that?  
 5 A At the rear passenger side door.  
 6 Q She stayed there the entire time?  
 7 A Yes.  
 8 Q Then what happened?  
 9 A There was more dialogue between me and  
 10 Mr. Hughes at that particular time.  
 11 Q Where was he when that occurred?  
 12 A Sticking his head out the front double  
 13 doors.  
 14 Q Could you hear him during that dialogue?  
 15 A Yes.  
 16 Q Then what happened?  
 17 A More people were coming out to go to  
 18 lunch, getting in their cars, and when I made my  
 19 last statement to him --  
 20 Q To him, being Officer Hughes?  
 21 A -- Officer Hughes, I put the car in drive  
 22 and left the facility.  
 23 Q And did you exit out the main gate?  
 24 A Yes.

1 Q So let's get into some of the specifics.  
 2 By the way, before you exited, did Miss Jones ever  
 3 leave the rear passenger side of your car?  
 4 A No, not that I remember.  
 5 Q Was Officer Hughes's head still poking out  
 6 the door at the time that you exited the property?  
 7 A Yes.  
 8 Q Did you speak to anyone else other than  
 9 Miss Jones and Security Officer Hughes while you  
 10 were on the Federal Records Center property that  
 11 day?  
 12 A Just people I waved to.  
 13 Q Did you speak words to anybody else?  
 14 A No verbal to anybody.  
 15 Q I want to show you your EEO Affidavit  
 16 which is Murray-17; if I could direct your attention  
 17 to Page 10, this is your Affidavit; correct?  
 18 A Correct.  
 19 Q You will see there where I highlighted,  
 20 you state that, "After Miss Jones and I talked for  
 21 awhile, I believe that she left and was gone when  
 22 Security Guard Mr. Hughes came out to approach me.  
 23 Is that your statement, your EEO statement, is that  
 24 what you stated?"

1 A I don't see it.  
 2 Q (Showing witness.)  
 3 A Yeah, she was there the whole time, I  
 4 don't know why I said she left, maybe because she  
 5 was talking to other people going to lunch, she  
 6 might have turned away, that's what I meant.  
 7 Q So is it your testimony that she didn't  
 8 come out until -- does that remain your testimony  
 9 that she didn't come out of the building until after  
 10 Officer Hughes went back into the building the first  
 11 time?  
 12 A Right.  
 13 Q But then after she came out, you are  
 14 saying that she turned away for a period?  
 15 A Yes.  
 16 Q So that she was not, in any way,  
 17 participating in the conversation with you and  
 18 Officer Hughes?  
 19 A Correct.  
 20 Q And you don't know whether she heard  
 21 everything that the two of you -- that Officer  
 22 Hughes and you were discussing?  
 23 A I don't know.  
 24 Q Now, at that time when you came to the

1 Records Center before you had any conversation with  
 2 Security Officer Hughes, did you feel that he was a  
 3 friend of yours?  
 4 A Oh, yeah. Yes.  
 5 Q Did you feel that he was a confidante,  
 6 somebody that you could confide in?  
 7 A Yes.  
 8 Q Did you feel that your conversations with  
 9 him that day were confidential?  
 10 A Yes.  
 11 Q You didn't believe that he would be  
 12 reporting what you said to management?  
 13 A No.  
 14 Q So you felt at liberty to talk to him?  
 15 A Yes.  
 16 Q And we'll talk in a second about what the  
 17 conversations were, but during the course of the  
 18 conversations you learned that you were being told  
 19 to leave the property; correct?  
 20 A Correct.  
 21 Q And is it true that at that point you felt  
 22 humiliated?  
 23 A Very.  
 24 Q Embarrassed?

1 A Yes.  
 2 Q Okay. You were angry?  
 3 A Yes.  
 4 Q I want to go through a couple of your  
 5 statements first and then cover some topics.  
 6 Let's turn, first, to your Statement  
 7 of Facts, which I showed you a moment ago, I think  
 8 you still have it, it is Murray-23.  
 9 A Um-hum.  
 10 Q If you could turn to Page 8, beginning at  
 11 the bottom and going on to 9; do you have that?  
 12 A Yes.  
 13 Q It says, "Shocked and humiliated, I  
 14 confided in James that I thought 'somebody ought to  
 15 blow that place up.'" Again this is the statement  
 16 you gave to Judge Shapiro this year; did you write  
 17 that?  
 18 A Yes.  
 19 Q And you sent that to Judge Shapiro?  
 20 A Yes.  
 21 Q And is it true that -- what you believed  
 22 to be in confidence to James stated, somebody ought  
 23 to blow that place up?  
 24 A That's correct.

1 Q Okay. And on the next page you say, you  
 2 were referring to harassment, exploitation and  
 3 oppression suffered by the poor ignorant employees  
 4 at the hand of management; what do you mean by that?  
 5 A It is my opinion that because the vast  
 6 majority of our employees come from special  
 7 education schools, which I was told, I don't know  
 8 for a fact, and because their behavior is very  
 9 ignorant, that they -- to me they provide a source  
 10 of humor or entertainment for management, and I  
 11 think -- ah -- they -- ah -- are exploited due -- or  
 12 as the result of their ignorance -- ignorant  
 13 behavior and being ignorant intellectually. You  
 14 know, they don't care too much about themselves, so  
 15 it is, kind of, understandable to see -- you can't  
 16 really get mad at anyone else for not expecting  
 17 them, or treating them like human beings. Very  
 18 seldom do a lot of them act like human beings.  
 19 Q So at that time you were angry about what  
 20 you saw as harassment exploitation that these  
 21 employees suffered at the Federal Records Center?  
 22 A Yeah, I have been upset about it, the way  
 23 people are treated. But, like I say, I understand  
 24 it at the same time. It is understandable.

1 Q Okay.  
 2 (Whereupon, a document was  
 3 marked for identification as  
 4 Exhibit Murray-24.)  
 5 BY MR. SULLIVAN:  
 6 Q Mr. Murray, this is a memo to Judge  
 7 Shapiro from you dated March 30th, 2006; it is two  
 8 pages; is that correct that it is something that you  
 9 submitted to the judge this year?  
 10 A Correct.  
 11 Q And on Page 2, the second to the last  
 12 paragraph you state, "I only commented to my friend  
 13 of two-and-a-half years, in confidence, that  
 14 somebody ought to nuke the place for their  
 15 mistreated and exploitation of the African-American  
 16 employees."  
 17 A I didn't use the word nuke.  
 18 Q I'm sorry?  
 19 A I didn't use the word nuke when I --  
 20 Q You said, blow up?  
 21 A Yeah.  
 22 Q Okay. Changing nuke to blow up, is that  
 23 correct that is what you told him in -- you believed  
 24 to be in confidence?

1 A Correct.  
 2 Q I will direct you to another statement.  
 3 (Whereupon, a document was  
 4 marked for identification as  
 5 Exhibit Murray-25.)  
 6 BY MR. SULLIVAN:  
 7 Q Mr. Murray, am I correct that this is an  
 8 April 3rd, 2006 memo that you submitted to Judge  
 9 Shapiro --  
 10 A Correct.  
 11 Q Directing you to the fourth page, it looks  
 12 like you numbered it Page 6B, the fourth page that  
 13 I've given you. The last paragraph you said, "This  
 14 caused me to make the inappropriate comment to my  
 15 former friend of two-and-a-half years, Security  
 16 Guard James Hughes that, 'somebody ought to knock  
 17 down the building.' I never dreamed that he would  
 18 repeat that to anyone." Is that a statement that  
 19 you made to Officer Hughes?  
 20 A Correct.  
 21 Q And you thought that he wasn't going to be  
 22 repeating that to anybody; is that correct?  
 23 A Correct.  
 24 Q By the way, and I can show you this

1 statement if you want, one of your statements to the  
 2 judge, and there might be another statement as well;  
 3 in your statement that you called the Douglas Factor  
 4 Statement, I can show it to you if you want, you  
 5 referred to be being in a road rage at the time;  
 6 were you in a rage when you made the statements that  
 7 you made to Security Officer Hughes?  
 8 A Yes.  
 9 Q So let's talk about how you got to that  
 10 point, and then we will come back to a couple of the  
 11 other statements that you made. You said before  
 12 that Officer Hughes came out of the building when  
 13 you first arrived, what did he say to you at that  
 14 time?  
 15 A Hey, how's it going.  
 16 Q And what did you say?  
 17 A Ah, just stopped past to see Skip for a  
 18 second.  
 19 Q Did you say anything else at that point?  
 20 A No.  
 21 Q He went back in the building; he came back  
 22 out; what did he say to you then?  
 23 A Darryl, they said that you are not  
 24 welcomed on the property.

1 Q And is that the point at which you had the  
 2 emotions that you described?  
 3 A Yes.  
 4 Q Did the fact that you had the  
 5 three-year-old in your car have anything to do with  
 6 it?  
 7 A Somewhat.  
 8 Q Was he still sleeping at the time?  
 9 A Yeah.  
 10 Q I'm sorry, you were saying?  
 11 A I went in, I was in shock thinking about a  
 12 harmless visit with a small child, and I am standing  
 13 and talking to friend -- I don't understand why I  
 14 had to leave. I was only going to be there -- not  
 15 like I tried to sign in, or come in the building or  
 16 anything. I was hurt and shocked.  
 17 Q So is that the time at which you made the  
 18 statement that you testified to already?  
 19 A Correct.  
 20 Q Did Mr. -- excuse me, Security Officer  
 21 Hughes say anything else to you?  
 22 A No.  
 23 Q Did you say anything else to him -- I will  
 24 go through some of your statements in a second, but

1 at this point do you recall saying anything else to  
 2 him?  
 3 A The very last thing I said to him was, I  
 4 didn't come up here to start any trouble, I don't  
 5 want you to get in any trouble over me, and took  
 6 off.  
 7 Q I am going to direct your attention, now,  
 8 to what we already marked as Murray-16, it is an  
 9 October 16th, 2004 EEO statement that you made, and  
 10 I am going to direct you to Page 7, so if you could  
 11 just confirm that this is an EEO statement that you  
 12 made in October of 2004?  
 13 A Correct.  
 14 Q And take a look at Page 7?  
 15 A (Witness complies.)  
 16 Q And isn't it the case that you state here  
 17 that after Officer Hughes re-emerged from the  
 18 building he said, Darryl, you have to leave, they  
 19 don't want you in the building or premises?  
 20 A Correct.  
 21 Q And then you say, "I look at Irene Jones  
 22 in shock and anger. I then said, somebody needs to  
 23 blow that M-O-T-H-E-R F-U-C-K-E-R up."  
 24 A Correct.

1 Q And you then say no one knows who or what  
 2 I was referring to. I am the only one who knows  
 3 that I was referring to Mr. Hong Diep, H-O-N-G  
 4 D-I-E-P; is that what you state there?  
 5 A Correct.  
 6 Q Now, as you testified to already you said,  
 7 you were -- you said you made a reference to the  
 8 building at the time; correct?  
 9 A Correct.  
 10 Q But you are saying what you were intending  
 11 to refer to was Mr. Hong Diep; can you explain that?  
 12 A At the time I thought it was the whole  
 13 incident was revolving around something that he  
 14 might have said to management; I thought he was the  
 15 source of it. But he was the reason why the whole  
 16 incident was taking place.  
 17 Q So is it your statement that in your  
 18 moment of rage, you made that statement in part to  
 19 reference to Mr. Hong Diep, D-I-E-P?  
 20 A In part.  
 21 Q I am going to redirect your attention to  
 22 your Affidavit, Pages 10 to 11. If you can, follow  
 23 where I am directing you, just let's go down here.  
 24 You, again, refer to being angry; correct?

1 A Correct.  
 2 Q And you were angry at the time?  
 3 A Correct.  
 4 Q And you say that you were cursing; is that  
 5 correct?  
 6 A Correct.  
 7 Q And you say, "I recall saying that I might  
 8 need to bring Johnnie Cockran and the dream team  
 9 back with me"; correct?  
 10 A Correct.  
 11 Q What did you mean by that?  
 12 A I was just kidding with James about  
 13 bringing -- to get the law involved in the whole  
 14 thing.  
 15 I knew Johnnie Cockran was dead at  
 16 the time, I was just being facetious I guess.  
 17 Q Now, do you remember when you gave your  
 18 EEO Affidavit statement, did you sit down with  
 19 somebody to do it, did you do it over the phone?  
 20 A I sat down with someone.  
 21 Q And they recorded what you were saying to  
 22 him or her?  
 23 A Yes.  
 24 Q And then after they did that, they sent it

1 to you for approval and you made some handwritten  
 2 comments?  
 3 A Yes.  
 4 Q And the handwritten comments on the  
 5 approval are the ones that you made when you  
 6 reviewed it?  
 7 A Yes.  
 8 Q You also state here that you said, I think  
 9 someone or somebody needs to blow that M -- I think  
 10 you might have spelled the word out, then M  
 11 underscore, F underscore up; the Affidavit at the  
 12 initial type had building in it, and then you  
 13 deleted the word building, and you wrote that I  
 14 never used the word building or place; you testified  
 15 today as you were recollecting, you did use the word  
 16 building; correct?  
 17 A The curse word up, up was the very last  
 18 word in the statement.  
 19 Q But you stated in your EEO statement to  
 20 the judge that you used the word building or place?  
 21 A Yeah, that's what I meant -- I said up. I  
 22 didn't say it, but that is what I am referring to.  
 23 Q But you state in these statements that you  
 24 did refer to it though; am I correct?

1 A Correct.  
 2 Q Okay. And that is correct?  
 3 A Correct.  
 4 Q You then state, "I heard from a friend  
 5 that Mr. Hughes did not go and talk to management  
 6 about what I said right away, but that he talked to  
 7 someone who had approached him to ask what I wanted  
 8 when I came to the building." Who did you learn  
 9 that from, or who did you hear that from?  
 10 A I think it was Miss Kim Parker, I am not  
 11 100 percent sure.  
 12 Q Who is Kim Parker?  
 13 A She -- ah -- is an employee who keys in  
 14 our daily production logs into the computer system,  
 15 I think.  
 16 Q You talked to her after September 22nd,  
 17 2004, or on September 22nd, 2004?  
 18 A Ah -- on September 23rd she called me to  
 19 ask me what was going on; why did I come to the  
 20 building, that there was a rumor going around, and I  
 21 told her that I don't know what they are talking  
 22 about.  
 23 Q You didn't tell her about what had  
 24 happened on September 22nd?

1 A I just told her that I came up to see Skip  
 2 for a minute, and that was it.  
 3 Q What did she tell you about what she  
 4 observed on September 22nd?  
 5 A I don't think she observed anything.  
 6 Q You said that I heard from a friend that  
 7 Hughes did not go and talk to management about what  
 8 I said right away, but he talked to somebody that  
 9 approached him, you said that you heard that from  
 10 her?  
 11 A Her or she heard it from someone. They  
 12 were saying, I think they were trying to express the  
 13 point that they got it from James, the only thing I  
 14 could think -- understand how they could have  
 15 knowledge of that, and he was telling someone that  
 16 John McEvoy approached him. When he did arrive at  
 17 the building that day, he didn't have anything to  
 18 say to him, and he approached him and asked him  
 19 about the whole incident. And not knowing just what  
 20 was what, they didn't go any further than that.  
 21 Q So you didn't get a name of anybody that  
 22 Security Officer Hughes talked to after you arrived?  
 23 A No.  
 24 Q Security Officer Hughes has stated, and if

1 you don't recall stating it, just let me know, that  
 2 when he initially spoke to you through the front  
 3 door, he said, Darryl what are you doing here and  
 4 you replied, I am here to blow up the building, and  
 5 then said, I am here to see Skip; is it possible  
 6 that your statement at that time when you had the  
 7 initial back and forth, I am here to blow up the  
 8 building?  
 9 A No, he never asked me what I was doing  
 10 there.  
 11 Q Are you sure?  
 12 A 100 percent.  
 13 Q And he stated to you -- you also said, I  
 14 am going to bring my people up here, and you know  
 15 what that means; did you ever make that statement?  
 16 A I was telling him that I was going to  
 17 bring Johnnie Cockran back, but that was it.  
 18 Q Do you recall saying anything else?  
 19 A No.  
 20 Q Do you have -- you stated that you were in  
 21 a state of rage at the time, because you were in  
 22 that state, do you think that might have affected  
 23 your ability to remember everything that was said at  
 24 the time?

1 A No.  
 2 Q Do you feel like you have a solid memory  
 3 of what was stated?  
 4 A Yes.  
 5 Q Now, Mr. Murray, in your Affidavit and in  
 6 one of your EEO statements, you referred to being  
 7 interviewed by law enforcement after the September  
 8 22nd, 2004 incident; do you recall being  
 9 interviewed?  
 10 A Yes.  
 11 Q Do you remember who interviewed you?  
 12 A I got something with their names on it; I  
 13 don't have their card, but if they gave me the  
 14 number --  
 15 Q You are referring to the FBI's Joint  
 16 Terrorist Task Force?  
 17 A Correct.  
 18 Q Why did you use that as the investigative  
 19 agency?  
 20 A When I answered the door, that's how they  
 21 identified themselves.  
 22 Q Is it possible that they were Department  
 23 of Homeland Security Federal Protective Services?  
 24 A I understand they are all the same.

1 Q You don't know?  
 2 A No.  
 3 Q So you are not absolutely sure it was the  
 4 FBI, it could have been Department of Homeland  
 5 Security?  
 6 A It could have been anybody.  
 7 Q Okay. When did that investigative team,  
 8 or investigators come to your house?  
 9 A September 23rd, about 10 a.m. in the  
 10 morning.  
 11 Q Were you ever interviewed regarding the  
 12 September 22nd, 2004 incident at the Federal Records  
 13 Center?  
 14 A While I was at the Records Center, no.  
 15 Q Was the only time and place that you were  
 16 ever interviewed was September 23rd, 2004, at your  
 17 home?  
 18 A Correct.  
 19 Q And no investigators ever interviewed you  
 20 anywhere else?  
 21 A No.  
 22 Q Regarding that incident?  
 23 A No.  
 24 Q How many persons came to your home on

1 September 23rd, 2004?  
 2 A Total of three.  
 3 Q Did they identify themselves?  
 4 A Yes, they said where they were from, and  
 5 their first names.  
 6 Q And you are reaching into your bag, what  
 7 are you looking for?  
 8 A A piece of paper they left with me with  
 9 their names and numbers on it.  
 10 (Whereupon, a brief recess was  
 11 taken.)  
 12 BY MR. SULLIVAN:  
 13 Q Are you looking for one of your own  
 14 statements, or something they left with you?  
 15 A A piece of paper that they left. A piece  
 16 of legal paper.  
 17 Q Well, have you produced it to me yet in  
 18 this case?  
 19 A No.  
 20 Q Would you do so before the discovery  
 21 period ends?  
 22 A Sure.  
 23 Q You said there were three individuals, how  
 24 many male, how many females?

1 A Two males, one female.  
 2 Q Were they all from the same agency?  
 3 A I am supposing they were.  
 4 Q Do you remember one being from the  
 5 Philadelphia Police Department?  
 6 A No, they all looked alike.  
 7 Q Okay. What did they ask you?  
 8 A Um --  
 9 Q Was there one person that conducted the  
 10 questioning, or did they ask you questions?  
 11 A Mostly one guy, and every now and then,  
 12 someone --  
 13 Q Do you remember the name, Drew Pepe?  
 14 A Yes, he was the main questioner.  
 15 Q Okay, and I can tell you that they were  
 16 investigators with the Federal Protective Services,  
 17 which is the Department of Homeland Security.  
 18 A Oh.  
 19 Q So he was the main questioner?  
 20 A Correct.  
 21 Q And what did he ask you about?  
 22 A He was trying to ascertain my identity.  
 23 He said that someone escaped from prison in Chicago  
 24 and they were trying to find that person; that is

1 how the questioning started off.  
 2 Q Did they say that they were trying to  
 3 figure out if you were Darryl Murray that had been  
 4 involved in some activities in Chicago?  
 5 A Yes.  
 6 Q And did you explain that you are not that  
 7 person?  
 8 A Yes.  
 9 Q And then did the questions proceed to  
 10 focus on National Archives employment and what had  
 11 happened the day before?  
 12 A Just what was going on with problems at  
 13 work, I think that is the way he put it.  
 14 Q Okay, and then what did you discuss; what  
 15 did he ask?  
 16 A I started telling him about -- that I was  
 17 on administrative leave, and expected to return back  
 18 to work, I think, in a week or two, and that is just  
 19 about the gist of that conversation, as far as --  
 20 Q And they talked about the basis for that  
 21 and the postings, and the -- why you were on  
 22 administrative leave?  
 23 A No, they showed me -- ah -- the one about  
 24 -- they showed me a posting about my desk top,

1 Fahrenheit 9/11, that is the only one.  
 2 Q Okay, so there were some discussion about  
 3 the postings?  
 4 A Yes.  
 5 Q Did you talk about the events of September  
 6 22nd?  
 7 A No.  
 8 Q Not at all?  
 9 A No.  
 10 Q Did they ask you what had happened on  
 11 September 22nd, 2004?  
 12 A No.  
 13 Q Nothing?  
 14 A Nothing.  
 15 Q I am going to show you your Affidavit.  
 16 Starting here at the bottom of Page 5 and move on to  
 17 Page 6 here, you state that these investigators came  
 18 out to my home to talk to me. They came to talk to  
 19 me because they wanted to investigate my identity --  
 20 remember we already talked about the Chicago issue,  
 21 and then they eventually got into talking about my  
 22 employment at NARA. I answered all kinds of  
 23 questions about my personal family background. They  
 24 asked me what was going on with my job, and I told

1 them that I was on administrative leave because I  
 2 was having social problems. He asked me if I ever  
 3 threatened to blow up any buildings, specifically,  
 4 at the Records Center -- specifically at the Records  
 5 Center. I told them that I thought I would be going  
 6 back to work soon, and that I had a lot of friends  
 7 there. They advised me that I should not go there  
 8 any more. I did not see any signs that they were  
 9 concerned about my activities after we talked; so  
 10 they did ask you, then, if you had ever threatened  
 11 to blow up any buildings, including the Records  
 12 Center?  
 13 A Yes.  
 14 Q Did you tell them on that occasion about  
 15 the comment that you had made to Officer Hughes?  
 16 A No.  
 17 Q Why not?  
 18 A Because they didn't ask me.  
 19 Q But they asked you if you ever made any  
 20 threats; correct?  
 21 A Asked me if I ever threatened to do it,  
 22 that's what they asked me.  
 23 Q Did you tell them about any of the  
 24 comments that you made to Officer Hughes?

1 A No.  
 2 Q You didn't feel that it was important to  
 3 their investigation to know what you had said?  
 4 A I didn't -- they asked me if I, personally  
 5 -- I was taking it as if I, personally, threatened  
 6 to blow up any buildings, and I said no.  
 7 Q Did they ask you whether you had  
 8 threatened anyone, or anything?  
 9 A No.  
 10 Q If their record and their file, and we  
 11 will talk about the connection of that in a second,  
 12 if it says that they did ask you about that and you  
 13 denied threatening anyone or anybody; is that  
 14 correct?  
 15 A They asked me if I ever threatened to blow  
 16 up any buildings, and I said no.  
 17 Q Did they ask you whether you had ever  
 18 threatened anybody?  
 19 A Maybe they did, I don't.  
 20 Q But you didn't tell them about the  
 21 comments from the previous day that you made to  
 22 Officer Hughes?  
 23 A No.  
 24 Q Did you tell those officers, those

1 investigators that you went to see Warren Hammond  
 2 regarding a small debt?  
 3 A Did I tell them about that; I don't -- I  
 4 don't know if I told them about that.  
 5 Q Did you go to see Mr. Hammond regarding a  
 6 small debt on September 22nd, 2004?  
 7 A No. I wanted to let him know that I was  
 8 all right. I don't remember if he owed me a couple  
 9 of dollars, or if I owed him a couple of dollars, so  
 10 I might have brought that up, but that wasn't the  
 11 reason why I went there.  
 12 Q It wasn't the reason?  
 13 A No.  
 14 Q In one of your statements, and I can show  
 15 you these if you want, it says, only a fool would  
 16 make blatant, incriminating comments about blowing  
 17 up a government facility since the terrorists attack  
 18 on 9/11; would you agree that it is legitimate for  
 19 federal employers to be increasingly vigilant in the  
 20 wake of September 11th, 2001?  
 21 A Yes.  
 22 Q Okay. You also state in your October 6th,  
 23 2004 EEO statement, I agree that management should  
 24 have the upper hand in all matters related to

Page 202

1 workplace violence and misconduct. I believe that  
 2 management is sending a strong message concerning  
 3 threats of violence in the workplace; is that your  
 4 opinion?  
 5 A Yes.  
 6 Q Your union representative, Mr. James  
 7 Cassedy in his October 2004 letter, which is an  
 8 Exhibit in this deposition, I can show you, again,  
 9 if you want to see it. Mr. Murray deeply regrets  
 10 the inappropriate use of language. In the present  
 11 climate of high security at Federal Centers, he  
 12 acknowledges that the inappropriate use of language  
 13 can have an alarming affect; is that the case, do  
 14 you regret using the language that you used on  
 15 September 22nd, 2004?  
 16 A Yes.  
 17 Q And you understand the sensitive nature of  
 18 the post 9/11 world?  
 19 A Definitely.  
 20 Q You state, and I can show this to you, in  
 21 February 8th, 2005 EEO statement, I do not blame  
 22 John McEvoy or David Roland for feeling the way that  
 23 they do, or for taking the action to remove or  
 24 pursue terrorists. After reading James Hughes's

Page 203

1 Affidavit, I would have taken the same action to  
 2 secure the building and the employees; is that your  
 3 view that a manager being presented with  
 4 Mr. Hughes's statement, would have in your view,  
 5 reasonably taken the actions that John McEvoy and  
 6 David Roland took in this case?  
 7 A I would have done the same thing, but I  
 8 would have gave the person a chance to make an ora  
 9 statement, and they didn't let me do it.  
 10 Q Let me ask you about that, you had  
 11 mentioned before that Mr. Cassedy -- Mr. Cassedy  
 12 stated an entire oversight to your views; is that  
 13 correct?  
 14 A Correct.  
 15 Q He submitted that letter in October of  
 16 2004; correct?  
 17 A Correct.  
 18 Q Which was before Mr. Roland sent you with  
 19 his final decision letter in November of 2004;  
 20 correct?  
 21 A Correct.  
 22 Q And you didn't make any further statement  
 23 to Mr. Roland to the National Archives before  
 24 Mr. Roland issued his November 2004 statement

Page 204

1 distancing yourself from James Cassedy's statements  
 2 on your behalf; correct?  
 3 A No, I didn't.  
 4 Q Why not?  
 5 A They -- you have to know the kind of  
 6 people that I worked with. Once management gets an  
 7 idea set in their head, there is no turning them  
 8 around, no talking to them at all, because when I  
 9 had asked a lady, Mrs. Camp that I wanted to speak  
 10 to someone about resolution, she said that it  
 11 doesn't sound like they are willing to listen or  
 12 hear anything, and I think that was before  
 13 Mr. Cassedy wrote up his statement.  
 14 Q You testified today that if you were in  
 15 Mr. McEvoy's and Mr. Roland's position, and had been  
 16 presented with James Hughes's statements, you would  
 17 have taken the same action that they took, yet you  
 18 are alleging religious discrimination not only to  
 19 the postings issue, but also related to this issue  
 20 regarding the threats and the action that was taken  
 21 based on those threats; is it that you really  
 22 believe to be religious discrimination component to  
 23 the decision to terminate you based on the threats,  
 24 or that you don't really understand what the basis

Page 205

1 was, and you are looking for a reason?  
 2 A I am trying to --  
 3 Q Let me -- I will ask you to answer that in  
 4 a second. You stated in one of your EEO statements  
 5 from November 18th, 2004; the entire staff was  
 6 confused as to why I have been terminated. The only  
 7 clue is my religion of Islam; so what I am asking  
 8 you, you are trying to search for a reason, and so  
 9 that is why you are picking the religious  
 10 discrimination basis?  
 11 A Yeah, I am trying to search for a reason  
 12 why, after 17 years, they wouldn't allow me to make  
 13 an oral statement, and I think I believe that its  
 14 the religious component involved in the case, is the  
 15 outstanding feature of why they are so adamant about  
 16 not letting me make a statement or explain anything,  
 17 I think that is based upon religion.  
 18 Q So as to the threat and the termination  
 19 based on the threat, you are saying that the only  
 20 reason why you are attributing religious  
 21 discrimination to that decision is that you were not  
 22 allowed to make an oral statement regarding what  
 23 happened, to explain the circumstances?  
 24 A That, and -- this case had gotten kind of

19 (Pages 202 to 205)

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| <p style="text-align: right;">Page 206</p> <p>1 intertwined with the original complaint about the<br/>2 postings, and then the second complaint about the<br/>3 threat. It is kind of taking on a second character,<br/>4 which they should be dealt with separately, but they<br/>5 used the second incident with the threat to<br/>6 reinforce the first complaint about the postings.<br/>7 If I had never went there that day, on September<br/>8 22nd, I don't think -- I don't think -- I think if<br/>9 Mr. McEvoy would have went for a termination, I<br/>10 don't think personnel would have --<br/>11 Q You are saying just the postings --<br/>12 A Yeah.<br/>13 Q But turning back to threat, what about the<br/>14 termination based on the threats, do you think it<br/>15 was religious discrimination?<br/>16 A I think it has -- ah -- I think they took<br/>17 it more seriously because it involved a person of<br/>18 the Islamic religion.<br/>19 Q But you are saying that you would have<br/>20 done the same thing if you would have been in the<br/>21 position, if those statements had been presented to<br/>22 you --<br/>23 A Yeah, I would have made the proposal and<br/>24 followed through, but I would have gotten more</p> | <p style="text-align: right;">Page 208</p> <p>1 go to terminate an employee, because there is so<br/>2 many other options, and they call it this Federal<br/>3 manager's guide. And I thought they would want the<br/>4 death penalty without ascertaining all the facts or<br/>5 taking into consideration the aggravating<br/>6 circumstances.<br/>7 Q Mr. Murray, I am going to mark as<br/>8 Murray-26.<br/>9 (Whereupon, a document was<br/>10 marked for identification as<br/>11 Exhibit Murray-26.)<br/>12 BY MR. SULLIVAN:<br/>13 Q Mr. Murray, this is a September 24th, 2004<br/>14 letter notice, style of notice from John McEvoy to<br/>15 you stating to promote the efficiency of the<br/>16 Service, I propose to remove you from your position<br/>17 and it states the instance of misconduct,<br/>18 insubordination as one, it is alleged, and making<br/>19 threatening remarks. On the final page, there is a<br/>20 statement that I will refer to in a moment; do you<br/>21 remember receiving this letter?<br/>22 A This?<br/>23 Q Yes, this letter.<br/>24 A Yes.</p>   |
| <p style="text-align: right;">Page 207</p> <p>1 statements, and I would have questioned the person<br/>2 involved rather than just -- they did what they were<br/>3 supposed to do, but then only partly did they do<br/>4 what they were supposed to do, they never really<br/>5 conducted a complete investigation.<br/>6 Q But you agree that your union<br/>7 representative did make a statement on your behalf<br/>8 in October 2004 before the final decision was made;<br/>9 correct?<br/>10 A Yes, he made a statement.<br/>11 Q You read that statement after it was sent<br/>12 out, you read it in October?<br/>13 A Yes.<br/>14 Q And you never wrote to the National<br/>15 Archives to correct anything in the statement;<br/>16 correct?<br/>17 A Correct.<br/>18 Q And you never made an additional statement<br/>19 before Mr. Roland made his final statement; correct?<br/>20 A I knew that it had to be more than just an<br/>21 alleged -- ah -- threat that there was more to it,<br/>22 and I believe that the religious factor was<br/>23 something that was having them go for the -- ah --<br/>24 what I seen and call the death penalty, is when they</p>  | <p style="text-align: right;">Page 209</p> <p>1 Q And did you receive it in September of<br/>2 2004?<br/>3 A Yes.<br/>4 Q It states on the third full paragraph on<br/>5 the last page, within 15 calendar days of your<br/>6 receipt of this notice, you may reply in writing, in<br/>7 person or both to David Roland, Assistant Regional<br/>8 Administrator, setting forth any pertinent facts or<br/>9 extenuating circumstances or other information you<br/>10 desire to submit. You may also submit Affidavits in<br/>11 support of your reply and may be represented by an<br/>12 attorney or other representative. In addition, you<br/>13 may designate a union representative in this matter;<br/>14 did you read this letter?<br/>15 A Yes.<br/>16 Q Did you, in response, do anything other<br/>17 than authorize your Union Representative, James<br/>18 Cassedy, to submit a reply on your behalf?<br/>19 A I contacted a lady by the name of Miss<br/>20 Elizabeth Kim, who handles alternative dispute<br/>21 resolution, and she didn't have any kind of success<br/>22 with trying to set up a meeting for us to discuss<br/>23 it.<br/>24 Q But you read this, yet you didn't submit</p> |

Page 210

1 anything beyond having your union representative  
2 submit the October 2004 letter; correct?

3 A There was an issue with them, and anything  
4 that I wrote would have been a waste of time, in my  
5 opinion.

6 Q You knew you had the opportunity just --  
7 to make additional information, but you didn't think  
8 it was going to make any difference?

9 A Yeah, I don't think that I had anything to  
10 submit at that time.

11 Q Mr. Murray, I am showing you, again, what  
12 has been marked as Murray-16, which is your October  
13 6th, 2004 EEO statement, pages -- Page 9, you state,  
14 I don't have a motive or grievance with management  
15 that would cause me to harm anyone.

16 I even informed Assistant Regional  
17 Director David Roland that I considered him to be a  
18 Messiah to the poor African-American employees. Mr.  
19 John McEvoy is the best regional director I have had  
20 the honor of servicing under; did you make those  
21 statements?

22 A Yes.

23 Q And did you view David Roland and John  
24 McEvoy in those ways?

Page 211

1 A Ah -- initially -- ah -- as time went on,  
2 I think as Mr. Roland started moving up from  
3 director to assistant regional administrator, and I  
4 think his folds and sights were set above that. I  
5 started to feel he was, maybe, a little less  
6 interested in the employees, and I understood at the  
7 same time that he didn't have as much time, but --  
8 ah -- me and some other people started thinking that  
9 Mitchell Buffone had too much influence. Some  
10 people even thought that Mitchell Buffone had some  
11 kind of dirt on him, or something, because anything  
12 that comes out of Mitchell's mouth, seems like  
13 management -- I mean, that handles all authority,  
14 were only his opinion or views had any merit to  
15 them.

16 Q But there was at least a time when you  
17 thought about --

18 A Oh, yeah.

19 Q -- they were all this way?

20 A Yeah.

21 Q And then there was a time when you felt  
22 about John McEvoy this way?

23 A Yeah, in the beginning.

24 Q And is there any religious discrimination

Page 212

1 basis, in your mind, regarding the actions that were  
2 taken following your threat, your alleged threat,  
3 that you haven't already testified to?

4 A Well, I think it is everything that was  
5 motivated and brought on because of the initial  
6 incident in '95. I don't think if anything would  
7 have happened in '95 if they would have brought up  
8 the letters of August 16th, 2004, and there wasn't  
9 no religious element to the whole incident. I think  
10 -- I think there fears and ignorance about other  
11 people's faith has been tainted by the media, and it  
12 is understandable.

13 I just feel as though I have been  
14 here so long, everybody knows that I am completely  
15 American. I don't like what is going on in the  
16 country. Nobody is keeping me from leaving.

17 Q So is that your speculation, then, about

18 --

19 A Yeah.

20 Q -- why things were done, it's not based on  
21 what anybody ever told you, what Mr. McEvoy ever  
22 said to you --

23 A Speculation.

24 Q And is there any comment that anybody ever

Page 213

1 made, Mr. McEvoy, Mr. Roland, anybody else that you  
2 based your view on that you were being discriminated  
3 against your religion?

4 A For some reason, I don't have any  
5 evidence, but the pictures of Osama bin Laden that  
6 started popping up in the male locker room, I got a  
7 real suspicion that John McEvoy might have done it  
8 even though he is upper management, because I never  
9 -- nobody ever brought anything -- ah -- like that,  
10 Islamic, in the -- ah -- workplace before he came,  
11 and it happened right around the time that he came,  
12 but I don't have evidence, so...

13 Q These were posters you said?

14 A Yeah.

15 Q And what did the posters say?

16 A Ah -- one of them was Osama bin Laden  
17 decapitated and it just -- ah -- and it says,  
18 justice served.

19 Q Did it say, Osama bin Laden wanted dead or  
20 alive; something to that effect?

21 A Yeah.

22 Q When were they posted in the men's locker  
23 wash room, did you say?

24 A The men's -- ah -- locker room, wash room.

21 (Pages 210 to 213)

1 It is actually the wash room.  
 2 Q When were they posted there, what year?  
 3 A 2001.  
 4 Q Okay. Were they there in 2002?  
 5 A I took them down every time I saw them.  
 6 Q Did you see them there in 2002?  
 7 A I don't think I seen any more in the men's  
 8 room.  
 9 Q So you saw them there only in 2001?  
 10 A Yeah.  
 11 Q Was it after or before September 11, 2001?  
 12 A After.  
 13 Q Okay. Do you know for a fact who posted  
 14 them there?  
 15 A No.  
 16 Q You were just guessing, then?  
 17 A Yeah.  
 18 Q Do you know why they no longer appeared  
 19 after 2001?  
 20 A People got tired of taking them down.  
 21 Q Did you ever bring there presence to  
 22 management?  
 23 A No, just coworkers, I think. I don't know  
 24 if coworkers brought it to Mr. Roland's attention.

1 Q So you don't know whether management ever  
 2 took any action to make sure those posted were no  
 3 longer posted?  
 4 A No. Not knowing who it was, you couldn't  
 5 stop it.  
 6 Q And you don't know if management took any  
 7 action?  
 8 A No.  
 9 Q But for sure they didn't appear, again,  
 10 after 2001?  
 11 A I don't recall seeing them.  
 12 Q Did they have any religious statements on  
 13 them?  
 14 A No.  
 15 Q Tell me each and every person who you  
 16 believe was treated more favorably then you were for  
 17 stating things similar to what you stated at the  
 18 workplace on September 22nd, 2004?  
 19 A Well, I have observed employees in heated  
 20 arguments -- ah -- almost near fights, throwing  
 21 furniture, and Mr. Buffone would -- ah -- because  
 22 they involved people in the clique or whatever, he  
 23 would try his best to cover it up, or if someone did  
 24 take it back to management, he would intervene some

1 kind of way.  
 2 Q Can you tell me about any specific  
 3 comments that anybody ever made at the Federal  
 4 Records Center in Philadelphia that was similar to  
 5 the sorts of comments that you have testified to  
 6 today, that you made on September 22nd, 2004?  
 7 A Oh, I don't know no one -- I never heard  
 8 anybody making any -- any threats, that is, somebody  
 9 should be --  
 10 Q Did you ever make any kind of request to  
 11 management to accommodate your religious beliefs in  
 12 any way?  
 13 A No, I thought it would be best to just try  
 14 to keep -- ah -- religious materials, newspapers,  
 15 whatever, just out of the workplace.  
 16 Q Okay, so the answer is no to that?  
 17 A No.  
 18 Q Okay. And, again, in your EEO Affidavit,  
 19 this is Murray-17, there is a question here at the  
 20 bottom of the page, has anyone in management made  
 21 any remarks to you that you believe represents  
 22 discrimination; you reply on the next page, Page 12,  
 23 other than Mr. McEvoy's written order to remove some  
 24 writings from my desk, no. I do not often interact

1 with managers. I just did my work and kept to  
 2 myself; is that correct?  
 3 A Correct.  
 4 Q Okay. Apart from what you testified to  
 5 today -- and you tell me when you have to go for a  
 6 break. Have you had any issues with Mr. David  
 7 Roland; did you have any issues with Mr.  
 8 David Roland during your time at the National  
 9 Archives?  
 10 A No.  
 11 Q Apart from what you testified to in this  
 12 deposition, do you -- did you have any issues with  
 13 John McEvoy during your time at the National  
 14 Archives?  
 15 A No.  
 16 Q Apart from what you testified to so far in  
 17 this deposition, did you, during your time at the  
 18 National Archives, have any issues with David  
 19 Bedesen, B-E-D-E-S-E-N?  
 20 A No.  
 21 Q All right. In one of your EEO statements,  
 22 I can show it to you if you want, you referred to  
 23 Mr. Weber as quote, "A notorious racist." This is  
 24 David Weber I am referring to; what was his position

1 in '95, '96?  
 2 A Director.  
 3 Q You referred to him as a notorious racist  
 4 and persecutor of the black race. Mr. Weber was  
 5 removed from his position due to his racist beliefs  
 6 and attitude. Mr. Weber is responsible, more than  
 7 any other person, from blocking my promotion to the  
 8 GS-4 level. Can you explain what the basis of those  
 9 comments are?  
 10 A Sure, but can I do it right after I come  
 11 back?  
 12 Q Yes.  
 13 (Whereupon, a brief recess was  
 14 taken.)  
 15 BY MR. SULLIVAN:  
 16 Q Mr. Murray, before we broke for you to go  
 17 out to the parking meter, we were talking about  
 18 Mr. David Weber, and I stated, restated one of your  
 19 EEO statements regarding him, do you want me to  
 20 repeat it, or do you want to tell me what you  
 21 remember?  
 22 A I think I remember it pretty well.  
 23 I think -- ah -- David Roland has  
 24 partly been accused more than anybody else of being

1 racist and --  
 2 Q No, I was talking about David Weber, you  
 3 are talking about David Roland.  
 4 A Oh, David Roland, I said David Weber.  
 5 David Roland has no connection with David Weber.  
 6 Q I'm sorry. So you are not talking about  
 7 Mr. -- Weber -- has been accused more than anybody  
 8 else about what?  
 9 A Being a racist or discriminating against  
 10 employees. Just from hearsay, I think he's had a  
 11 lot of complaints from my coworkers who filed formal  
 12 complaints, and I think he was involved in a  
 13 lawsuit, but -- um --  
 14 Q Do you know who made those accusations?  
 15 A I think Kim Parker had one formal lawsuit,  
 16 or at least a complaint about something.  
 17 Q Anybody else?  
 18 A Nobody likes him, but I don't know what  
 19 they've done about it in their personal --  
 20 Q Are you talking about employees of --  
 21 A Employees.  
 22 Q -- of a particular race, or general?  
 23 A I think generally; I think even Mitchell  
 24 Buffone hates him probably more than anybody else.

1 Q Has Mr. Weber ever said anything to you  
 2 that you consider racist or inappropriate?  
 3 A No, I never had any problems with anybody  
 4 directly bringing that kind of stuff to me.  
 5 Q Did you ever have any issues yourself with  
 6 Mr. Weber?  
 7 A Yes, back in '93 or '94, 1993 or 1994.  
 8 When our workload was low, we had a system where we  
 9 were given a number and to call in on it and the  
 10 answering machine would see whether or not you  
 11 should come in if there was work. And Mr. Weber  
 12 would always put my name in on two different days,  
 13 every week, it wouldn't be the same, and I would  
 14 only come in for an hour, and then I would be sent  
 15 home. He does a lot of nitpicking, and anything  
 16 that he can think of to harass you and irritate you.  
 17 And then he tried to get rid of me for not coming  
 18 in, answering the machine; and I told him, well, if  
 19 there is no work, why don't I just leave for a  
 20 period of time and try to find something else  
 21 instead of being tied to the phone each night. That  
 22 was a big problem.  
 23 Q This is all in '93, '94?  
 24 A Ah -- around that time, yeah.

1 Q And he was in what position at that time?  
 2 A He was director then.  
 3 Q Of the Federal Records Center?  
 4 A Yes. And other than the nitpicking thing,  
 5 anything he can do to irritate you.  
 6 I think he was raised to be the way  
 7 he is. He said that his father -- he didn't tell  
 8 me, he told a close friend of mine, that his father  
 9 was a racist and he was raised up to be that way,  
 10 but he tried all of his life not to be that way.  
 11 Q He is -- what is his race?  
 12 A Caucasian.  
 13 Q Do you know what his religion is?  
 14 A Ah -- atheist now.  
 15 Q Do you know what he was formally.  
 16 A Catholic.  
 17 Q You were saying about his father?  
 18 A Um -- his father raised him to be -- but  
 19 he tried all his life not to be. But I don't think  
 20 that he tried hard enough.  
 21 Q Do you have any basis for believing that  
 22 when you characterized harassment or nitpicking had  
 23 any racial or religious component to it?  
 24 A I think he liked to harass and nitpick on

1 the employees because of the low intelligence. I  
2 remember a situation, once, where an employee by the  
3 name of Lee Robinson -- ah -- Mr. Weber was telling  
4 him -- like mocking him, to think hard, now; before  
5 you answer the question, think; because he was  
6 making fun of him because he is kind of slow.

7 Q Mr. Robinson is what race?

8 A Mr. Robinson is Afro-American.

9 Q And you are saying that the nitpicking,  
10 harassing that he did it, of you and others in your  
11 view was based upon just him seeing employees as  
12 having low intelligence?

13 A Yes, and I think that he based the fact  
14 that they all had low intelligence, because they  
15 were of African descent.

16 Q You said that Caucasian employees also did  
17 not like him?

18 A Ah -- just -- ah -- Mr. -- Buffone didn't  
19 like him, he tried to, I think that he tried to fire  
20 him quite a few times. Each time was Mr. Buffone's  
21 fault, though, but that is in the same category.  
22 But a lot of times you characterize or I might  
23 characterize people being racist or discriminating  
24 against people who have some serious issues within

1 themselves, and it comes out in the workplace.

2 Q And that is your speculation, then, that  
3 some of this -- in your mind, had a racial basis?

4 A Yes.

5 Q Did he ever state anything to you that  
6 indicated a racist attitude?

7 A To me, I could never understand why he was  
8 so mean and laughing and irritable the way he was,  
9 and the reasons why he would try to block me from  
10 advancing. And I didn't have any feelings about him  
11 one way or the other, and I just started to search  
12 in myself and try to figure out why this man acted  
13 this way; why is he going this; and the first thing  
14 that always comes to a so called, my Murray's mind,  
15 when they are having problems, white people, the  
16 first thing that comes to their mind that it has to  
17 be race, not always that, but it is one of the first  
18 things that comes to mind.

19 Q Now, you said that he blocked you, in what  
20 way did he block you?

21 A Influencing the status quo people, like --  
22 really, the director or whoever is in charge of  
23 hiring the person, promoting them, will get advice  
24 from his supervisors, or work coordinators who are

1 mostly status quo people, and at times they, kind  
2 of, let me know that they got to do what they are  
3 told, or vote a certain way without, you know, being  
4 too incriminating. But everybody knows that it is  
5 up to a director who gets the promotion or not,  
6 because --

7 Q So you are saying that he blocked you from  
8 promotion?

9 A Yeah. Normally, he would go out and tell  
10 whoever he wants to get a promotion, to put in for  
11 it, and usually that person would get it. People  
12 who are not in the status quo clique knows that  
13 unless management tells you to put in for it, you  
14 are wasting your time putting in for it, they  
15 already got a person lined up for it regardless of  
16 their qualifications or whatever.

17 Q Did he ever state anything to you stating  
18 that he was keeping you from a promotion, or is this  
19 your speculation as to what happened?

20 A Everything is, generally, speculation  
21 because nobody comes right out there, no one comes  
22 out and states too much. They have people -- they  
23 have -- their philosophy or motto is, don't get mad,  
24 get even. I heard the status quo and people talk

1 like that. Actually, openly come out and attack  
2 you; they do everything from behind the scenes, and  
3 that is how things are able to go on for such a long  
4 time, because if no one actually says anything to  
5 you, or attacks you, in turn, the only person that  
6 you can turn to is management or the director, and  
7 he happens to be the puppeteer, then you got no  
8 choice but to just try to get through the day and  
9 get your paycheck and get out of there at the end of  
10 each day.

11 Q Now when you say Mr. Weber was removed  
12 from his position due to his racist beliefs and  
13 attitude, what is your basis for that?

14 A Oh, I think right around that time, when  
15 he was removed, I think -- I think Kim Parker was  
16 the person who had filed some kind of complaint  
17 against him relating to racist or discrimination; I  
18 didn't get into the personal specifics of the case.

19 Q What year was that; do you remember?

20 A '94, '95 -- no, no, this would be '96,  
21 '97, sometime around there.

22 Q And Mr. Weber went to what position at  
23 that point?

24 A Ah -- what is his title? They just stuck

1 him in the corner and told him not to have any -- I  
 2 remember somebody saying that he was not to have any  
 3 contact with African-Americans or minorities.  
 4 Q Who said that?  
 5 A (No response.)  
 6 Q A coworker?  
 7 A Uh -- a coworker.  
 8 Q And this was around the same time that Kim  
 9 Parker had made an allegation, about the same time?  
 10 A Um-hum.  
 11 Q What is your basis for believing that the  
 12 two are connected, your speculation or --  
 13 A Yeah, my speculation.  
 14 Q You didn't hear from management or anybody  
 15 --  
 16 A No.  
 17 Q -- that there was a relationship?  
 18 A No. I remember when David Roland first  
 19 came, we talked and I just said that I can't work  
 20 under this guy or with this guy, and he told me not  
 21 to worry about him because he is going to be out of  
 22 the picture for good. So he -- I, kind of, picked  
 23 up on some of the different things that people would  
 24 say.

1 Q Now, was John McGee previously your first  
 2 line supervisor?  
 3 A Yes.  
 4 Q He was in a position that Elizabeth  
 5 Washington was in --  
 6 A Correct.  
 7 Q -- with regard to you at a later time?  
 8 A Correct.  
 9 Q Do you have issues with John McGee?  
 10 A None.  
 11 Q You liked him?  
 12 A Very much.  
 13 Q Good supervisor?  
 14 A Yes.  
 15 Q Have you had any issues with Elizabeth  
 16 Washington?  
 17 A None.  
 18 Q Good supervisor?  
 19 A Good supervisor.  
 20 Q Can you tell me every contact that you  
 21 have had, by phone, in writing, in any way with  
 22 Warren Skip Hammond since September 22nd, 2004 at  
 23 11:00 in the morning, apart from when you saw him at  
 24 his deposition in this case?

1 A Prior to the time of his deposition would  
 2 have been September 2004, when I called him to ask  
 3 him about, did he hear John McEvoy calling the  
 4 employees creatures with privileges.  
 5 Q Do you remember when you made that call?  
 6 A The very end of September 2004, the very  
 7 end.  
 8 Q Late September?  
 9 A Yeah, late September 2004.  
 10 Q You called him on his phone?  
 11 A Yes.  
 12 Q Did you actually speak to him?  
 13 A Yes.  
 14 Q And I will talk to you about that in a  
 15 second.  
 16 Have you had any other contact with  
 17 Mr. Hammond since September 22nd, 2004 at 11:00 in  
 18 the afternoon?  
 19 A No.  
 20 Q Apart from the day of his deposition?  
 21 A Apart from the deposition.  
 22 Q None at all; none in writing?  
 23 A Uh-uh.  
 24 Q None in person; none by telephone?

1 A Uh-uh.  
 2 Q Okay. In late September 2004, tell me  
 3 what your conversation was with Mr. Hammond?  
 4 A I had asked him, did he hear, was he  
 5 present at the meeting when John McEvoy called the  
 6 staff nothing but creatures with privileges. Ah --  
 7 I don't recall whether he said he was or wasn't, but  
 8 I, kind of, picked up that he was kind of scared to  
 9 say anything, because I had mentioned it to Shawn  
 10 Walker at EEOC, and he said that he would send an  
 11 investigator out if one person would come forward.  
 12 Everyone was too scared.  
 13 Q And I will come back to that.  
 14 Did you discuss anything else with  
 15 Mr. Hammond in that call; did you discuss in any way  
 16 the events of September 22nd, 2004, the issues with  
 17 your postings, anything?  
 18 A No, it was just about the incident where  
 19 he called people creatures, and that was it. We  
 20 were on the phone for about five minutes before  
 21 something happened and we got disconnected and we  
 22 didn't resume.  
 23 Q So he didn't say, gosh, I'm worried about  
 24 what happened on September 22nd; I've heard things

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| <p style="text-align: right;">Page 238</p> <p>1 in violation of the letter; correct?</p> <p>2 A (No response.)</p> <p>3 Q In violation of the letter that you would</p> <p>4 later receive?</p> <p>5 A I didn't follow you on that.</p> <p>6 Q You understood the letter, August 17th,</p> <p>7 2004 letter to prohibit the type of material that</p> <p>8 you had posted in August 2004; correct?</p> <p>9 A It sounds like you are saying that I</p> <p>10 understand the letter from August 2004 is related to</p> <p>11 the postings?</p> <p>12 Q No. You understood, am I correct, that</p> <p>13 the August 17th, 2004 letter prohibited you from</p> <p>14 posting the sort of material that you had taken down</p> <p>15 that day?</p> <p>16 A Yes.</p> <p>17 Q And as we've testified to before in</p> <p>18 Murray-12, which is photographs what you had been</p> <p>19 required to take down in August, there are comments</p> <p>20 related to -- that you directed to your</p> <p>21 co-employees; correct, worthless loser, et cetera?</p> <p>22 A Correct.</p> <p>23 Q So you understood the letter to prohibit</p> <p>24 you from having similar sort of postings in the</p>               | <p style="text-align: right;">Page 240</p> <p>1 Q Any others pending?</p> <p>2 A I think there might be one more with the</p> <p>3 government. I don't have it with me. I have it at</p> <p>4 home, but I don't have it with me.</p> <p>5 Q Have you applied since being terminated</p> <p>6 from the National Archives for any positions other</p> <p>7 than the ones that you identified here for your</p> <p>8 Discovery responses?</p> <p>9 A No.</p> <p>10 Q Had you any interviews with any potential</p> <p>11 employers?</p> <p>12 A No.</p> <p>13 Q Have any of these potential employers</p> <p>14 stated to you any issues or concerns they have</p> <p>15 regarding you?</p> <p>16 A No. I would imagine they have some,</p> <p>17 though, with my termination.</p> <p>18 Q They haven't stated anything to you?</p> <p>19 A No.</p> <p>20 Q Interrogatory number 2 asks you whether</p> <p>21 you have been employed, or, otherwise, performed any</p> <p>22 compensated work since leaving the National</p> <p>23 Archives; and I will just ask you now, have you</p> <p>24 worked outside the home since September 22nd, 2004?</p> |
| <p style="text-align: right;">Page 239</p> <p>1 future?</p> <p>2 A Correct.</p> <p>3 Q Revenge is a dish best served cold; same</p> <p>4 thing?</p> <p>5 A Correct.</p> <p>6 Q Mr. Murray, as the final main subject area</p> <p>7 of the deposition, I want to go over your discovery,</p> <p>8 and I can pull them out if you want to refresh your</p> <p>9 memory.</p> <p>10 I -- in my fist couple of</p> <p>11 Interrogatories, I asked you about what employment</p> <p>12 you sought since leaving the National Archives since</p> <p>13 you have been terminated, and you, in your November</p> <p>14 2nd, 2006 response to Interrogatory number 1, you</p> <p>15 stated that you have current applications for</p> <p>16 employment on file with the Department of Treasury,</p> <p>17 the FBI, the DEOC and the Department of State.</p> <p>18 Can you tell me what the status is of</p> <p>19 those applications?</p> <p>20 A Still waiting. The Department of State</p> <p>21 wants, I believe -- someone with a higher score got</p> <p>22 that one, and the other ones are still opened and I</p> <p>23 have another current one since we last spoke, with</p> <p>24 the U.S. Marshalls.</p> | <p style="text-align: right;">Page 241</p> <p>1 A Yes.</p> <p>2 Q Okay. And Interrogatory says that you</p> <p>3 worked for Snelling Personal Services from March</p> <p>4 2005 to July 2005, you attached the Snelling</p> <p>5 Personal Service document referring to a start date</p> <p>6 at Kun-Crest, K-U-N - C-R-E-S-T Services of May 3rd</p> <p>7 2005 and evaluating you on May 10th, 2005; did you</p> <p>8 work with Snelling Personal Services during that</p> <p>9 period?</p> <p>10 A Yes.</p> <p>11 Q Have you worked with them during any other</p> <p>12 period?</p> <p>13 A No.</p> <p>14 Q And through Snelling Personnel Services,</p> <p>15 did you obtain some work at Kun-Crest Services?</p> <p>16 A Yes.</p> <p>17 Q What kind of work was that?</p> <p>18 A Janitorial.</p> <p>19 Q And was your period there -- tell me what</p> <p>20 your period was, there at work?</p> <p>21 A I think I was there for five or six months</p> <p>22 on a 20-hour a week detail.</p> <p>23 Q Do you remember the months?</p> <p>24 A (No response.)</p>  |

1 in violation of the letter, correct?

2 A (No response.)

3 Q In violation of the letter that you would

4 later receive?

5 A I didn't follow you on that.

6 Q You understood the letter, August 17th,

7 2004 letter to prohibit the type of material that

8 you had posted in August 2004, correct?

9 A It sounds like you are saying that I

10 understand the letter from August 2004 is related to

11 the postings?

12 Q No. You understood, am I correct, that

13 the August 17th, 2004 letter prohibited you from

14 posting the sort of material that you had taken down

15 that day?

16 A Yes.

17 Q And as we've testified to before in

18 Murray-12, which is photographs what you had been

19 required to take down in August, there are comments

20 related to -- that you directed to your

21 co-employees, correct, worthless loser, et cetera?

22 A Correct.

23 Q So you understood the letter to prohibit

24 you from having similar sort of postings in the

1 future?

2 A Correct.

3 Q Revenge is a dish best served cold; same

4 thing?

5 A Correct.

6 Q Mr. Murray, as the final main subject area

7 of the deposition, I want to go over your discovery,

8 and I can pull them out if you want to refresh your

9 memory.

10 I -- in my first couple of

11 interrogatories, I asked you about what employment

12 you sought since leaving the National Archives since

13 you have been terminated, and you, in your November

14 2nd, 2006 response to Interrogatory number 1, you

15 stated that you have current applications for

16 employment on file with the Department of Treasury,

17 the FBI, the DEOC and the Department of State.

18 Can you tell me what the status is of

19 those applications?

20 A Still waiting. The Department of State

21 wants, I believe -- someone with a higher score got

22 that one, and the other ones are still opened and I

23 have another current one since we last spoke, with

24 the U.S. Marshalls.

1 Q Any others pending?

2 A I think there might be one more with the

3 government. I don't have it with me. I have it at

4 home, but I don't have it with me.

5 Q Have you applied since being terminated

6 from the National Archives for any positions other

7 than the ones that you identified here for you?

8 Discovery responses?

9 A No.

10 Q Had you any interviews with any potential

11 employers?

12 A No.

13 Q Have any of these potential employers

14 stated to you any issues or concerns they have

15 regarding you?

16 A No. I would imagine they have some,

17 though, with my termination.

18 Q They haven't stated anything to you?

19 A No.

20 Q Interrogatory number 2 asks you whether

21 you have been employed, or, otherwise, performed any

22 compensated work since leaving the National

23 Archives; and I will just ask you now, have you

24 worked outside the home since September 22nd, 2004?

1 A Yes.

2 Q Okay. And Interrogatory says that you

3 worked for Snelling Personal Services from March

4 2005 to July 2005, you attached the Snelling

5 Personal Service document referring to a start date

6 at Kun-Crest, K-U-N - C-R-E-S-T Services of May 3rd

7 2005 and evaluating you on May 10th, 2005; did you

8 work with Snelling Personal Services during that

9 period?

10 A Yes.

11 Q Have you worked with them during any other

12 period?

13 A No.

14 Q And through Snelling Personnel Services,

15 did you obtain some work at Kun-Crest Services?

16 A Yes.

17 Q What kind of work was that?

18 A Janitorial.

19 Q And was your period there -- tell me what

20 your period was, there at work?

21 A I think I was there for five or six months

22 on a 20-hour a week detail.

23 Q Do you remember the months?

24 A (No response.)

1 about it, why don't you tell me what happened; he  
 2 didn't ask you any questions like that?  
 3 A No.  
 4 Q And you didn't say, somebody might contact  
 5 you regarding my termination, my EEO complaint,  
 6 anything like that?  
 7 A No.  
 8 Q No discussion about September 22nd, 2004?  
 9 A Uh-uh.  
 10 Q About the possible involvement of Mr.  
 11 Hammond and your EEO case?  
 12 A No.  
 13 Q Regarding the statement that you say John  
 14 McEvoy made about certain employees being creatures  
 15 with privileges; what kind of meeting was that made  
 16 at?  
 17 A Um -- a meeting where, I think, management  
 18 was notifying them that no one would be allowed in  
 19 the building after 4:30 any more. I guess it was a  
 20 safety or security issue they had.  
 21 Q In the wake of --  
 22 A Right.  
 23 Q -- what happened on September 22nd?  
 24 A Right.

1 Q And who told you what happened at that  
 2 meeting?  
 3 A I was talking to different coworkers,  
 4 girls here and there, I would bump into them on the  
 5 street. I don't know if it was Diane or Bonnie that  
 6 I seen.  
 7 Q Are they coworkers of yours?  
 8 A They are coworkers.  
 9 Q What is Diane's last name?  
 10 A She's Hispanic or --  
 11 Q How about Bonnie?  
 12 A Fleming.  
 13 Q Do you know whether it was one of those  
 14 two that had told you what had happened at the  
 15 meeting?  
 16 A I can't be 100 percent sure, but I've seen  
 17 them on the street, once or twice since then. But  
 18 that's why -- their names are coming -- back around  
 19 that time, but I don't know for sure.  
 20 Q What did they tell you about who was at  
 21 the meeting; what did whoever reported to you about  
 22 the meeting tell you about the meeting?  
 23 A Just a staff meeting.  
 24 Q All staff, or just staff of a particular

1 race?  
 2 A Everybody. Everybody.  
 3 Q So that would include people of different  
 4 races and religions?  
 5 A Correct.  
 6 Q And Mr. McEvoy said what?  
 7 A I don't remember the whole conversation, I  
 8 only think they told me that he had made the commen  
 9 that they were just nothing but creatures with  
 10 privileges.  
 11 Q They meaning, all staff?  
 12 A Yeah.  
 13 Q What did you find offensive about that?  
 14 A Calling them and being creatures, I don't  
 15 know why he couldn't just call them employees or  
 16 human beings.  
 17 Q I'm sorry, did you say Henry Bean?  
 18 A No, why he couldn't call them human  
 19 beings, or why he couldn't call them employees or  
 20 just, people. Creatures seems like some type of  
 21 lower life form or something.  
 22 Q Is it possible that you don't know that  
 23 Mr. McEvoy said creature comforts, that he was  
 24 referring to creature comforts rather than saying

1 creatures with privileges?  
 2 A I don't know.  
 3 Q You weren't there; right?  
 4 A No, I wasn't there.  
 5 Q Would you have a problem if he was  
 6 referring to employees having creature comforts?  
 7 A There is something about the word,  
 8 creature, that doesn't sit too well. I guess a  
 9 person could use it in a non-harming way. I guess  
 10 it could be used that way.  
 11 Q So in your view, it is just derogatory  
 12 toward employees generally not with regard to race  
 13 or generally?  
 14 A Generally, yeah.  
 15 Q Tell me every single contact that you had  
 16 with Irene Jones since September 22nd, 2004  
 17 afternoon, after 12:00 noon that day, apart from  
 18 when you talked to her at her deposition in this  
 19 case?  
 20 A When I left the parking lot on September  
 21 22nd, 2004, I haven't talked to her since.  
 22 Q Have you had any contact in writing with  
 23 Ms. Jones?  
 24 A No.

1 Q 2005?  
 2 A 2005.  
 3 Q Do you remember when you started?  
 4 A No, but I remember finishing up at the --  
 5 after the 4th of July, so about five or six months  
 6 back, up to July.  
 7 Q Have you worked there since?  
 8 A No.  
 9 Q And you didn't work there before that?  
 10 A No.  
 11 Q Have you had any other compensated work  
 12 since leaving the National Archives in September  
 13 2004, apart from Snelling Personal Services and  
 14 Kun-Crest Services?  
 15 A Yes.  
 16 Q Can you tell me about those?  
 17 A I worked for a couple of weeks at a place  
 18 called Interstate -- Interstate Brand, it is a  
 19 Wonder Bread Bakery, but I think the official name  
 20 of the company was Interstate Brand, I believe it  
 21 was.  
 22 Q What is the address that you worked at?  
 23 A It is up on Bluegrass Road. I got it at  
 24 home.

1 Q What city or town?  
 2 A Northeast Philadelphia.  
 3 Q And you said that you worked there for  
 4 three weeks?  
 5 A Yeah.  
 6 Q What did you do there?  
 7 A Worked in the bakery, packing -- packing  
 8 bread. That was my title, bread packer.  
 9 Q What year was that?  
 10 A 2005; my last day was the first week in  
 11 January 2005, so it would have to be just before --  
 12 from November 2004 till January 2005.  
 13 Q And you haven't work there since?  
 14 A No.  
 15 Q Have you had any other compensated work  
 16 other than Interstate Brand, Wonder Bread, Kun-Crest  
 17 Service and Snelling Personal Services since  
 18 September 2004?  
 19 A No, that is it.  
 20 Q Have you submitted any applications for  
 21 employment apart for anything that you submitted to  
 22 those employers and those that you identified in  
 23 your Interrogatory responses?  
 24 A No, the last one was with the U.S.

1 Marshalls.  
 2 Q I am going to turn a little bit to issues  
 3 regarding your medical history; you've stated, I  
 4 believe, that your seeking to recover medical  
 5 expenses in this case; is that correct?  
 6 A Correct.  
 7 Q And could you explain why, in this case  
 8 involving your termination from the National  
 9 Archives for the reasons that are known to you, you  
 10 believe that you are entitled to recover medical  
 11 expenses?  
 12 A At the time of my termination, I was under  
 13 a doctor's care for rheumatoid arthritis, and I was  
 14 placed on medication for the rest of my life, and as  
 15 the result of my termination, I lost my health  
 16 insurance and had to pay for the medication out of  
 17 pocket.  
 18 Q Have you had any health insurance at all,  
 19 any medical coverage at all since leaving the  
 20 National Archives?  
 21 A No.  
 22 Q When you visited doctors, what has the  
 23 payment arrangement been with the doctors you've  
 24 seen?

1 A It's only \$30 for office visits.  
 2 Q This is your same physician that you've  
 3 seen before you were terminated?  
 4 A Yes.  
 5 Q And he accepts the \$30 payment?  
 6 A Um-hum.  
 7 Q Who is that doctor?  
 8 A Dr. Joel Jaffe.  
 9 Q J-A-F-F-E?  
 10 A Correct.  
 11 Q And where is he located?  
 12 A 711 North Fairmount Avenue, Philadelphia  
 13 PA.  
 14 Q What kind of doctor is Dr. Jaffe?  
 15 A D.O. at the end of his name.  
 16 Q When did you first see Dr. Jaffe?  
 17 A December of '99.  
 18 Q Do you see Dr. Jaffe for general medical  
 19 treatment, or for specialized treatment?  
 20 A General.  
 21 Q He is your general practitioner?  
 22 A General practitioner.  
 23 Q How infrequently do you see Dr. Jaffe?  
 24 A Once a month.

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| <p style="text-align: right;">Page 246</p> <p>1 Q And that has been the case for many years?</p> <p>2 A Since 1999.</p> <p>3 Q Is he your only general medical</p> <p>4 practitioner since '99?</p> <p>5 A Correct.</p> <p>6 Q Have you seen any other doctors within the</p> <p>7 past three years?</p> <p>8 A No, the last was 2000. The last time that</p> <p>9 I seen a different doctor.</p> <p>10 Q So for your musculoskeletal issues that</p> <p>11 you've been talking about, for fibromyalgia, I</p> <p>12 believe; correct?</p> <p>13 A Yes.</p> <p>14 Q Have you seen any doctors, therapists,</p> <p>15 anybody other than Dr. Jaffe for medical treatment?</p> <p>16 A Not that -- Dr. Papau.</p> <p>17 Q And is Dr. Papau at the same -- can you</p> <p>18 spell it?</p> <p>19 A No, he is Albert Einstein Arthritis</p> <p>20 Center.</p> <p>21 Q Can you spell his last name?</p> <p>22 A P-A-P-A-U.</p> <p>23 Q Do you know Dr. Papau's first name?</p> <p>24 A Ramesh, R-A-M-E-S-H.</p> | <p style="text-align: right;">Page 248</p> <p>1 A No, I was in a car accident and I seen Dr.</p> <p>2 -- what is his name; I have it on the tip of my</p> <p>3 tongue. It will come to me.</p> <p>4 Q When were you in a car accident?</p> <p>5 A 2003. December 2003.</p> <p>6 Q Were you the driver of the car?</p> <p>7 A Yes.</p> <p>8 Q Did you collide with another car?</p> <p>9 A I got hit from the rear and sandwiched in</p> <p>10 and pushed into another car.</p> <p>11 Q Where did that occur?</p> <p>12 A That occurred on North Broad Street.</p> <p>13 Q Were you injured?</p> <p>14 A Just some back pain; hit my head, but I</p> <p>15 don't think it -- I don't think it knock anything</p> <p>16 loose.</p> <p>17 Q And you saw a doctor after that?</p> <p>18 A Yes.</p> <p>19 Q And is that a doctor that Dr. Jaffe or</p> <p>20 Dr. Papau referred you to?</p> <p>21 A No, he is a neighborhood doctor.</p> <p>22 Q How did you decide upon going to him?</p> <p>23 A He handles therapy.</p> <p>24 Q Did anybody refer you to him?</p>   |
| <p style="text-align: right;">Page 247</p> <p>1 Q Dr. Papau is a he?</p> <p>2 A Yeah.</p> <p>3 Q And he is at Albert Einstein Arthritis</p> <p>4 Center?</p> <p>5 A Arthritis Center. The rheumatology</p> <p>6 department.</p> <p>7 Q Is that in Albert Einstein Hospital?</p> <p>8 A Correct.</p> <p>9 Q When did you first see Dr. Papau?</p> <p>10 A January of 2000.</p> <p>11 Q You saw Dr. Papau for what?</p> <p>12 A The arthritis leg pain.</p> <p>13 Q What kind of doctor is Dr. Papau?</p> <p>14 A Rheumatologist.</p> <p>15 Q How often have you seen Mr. Papau since</p> <p>16 January of 2000?</p> <p>17 A I haven't been back since there isn't no</p> <p>18 cure for what I have. The pain symptoms get worse</p> <p>19 with age; it is degenerative.</p> <p>20 Q So just one visit?</p> <p>21 A Um-hum.</p> <p>22 Q Have you seen any other doctors, medical</p> <p>23 practitioners since January 2000, since Dr. Papau</p> <p>24 and Dr. Jaffe?</p>                                   | <p style="text-align: right;">Page 249</p> <p>1 A No, I saw him on my own.</p> <p>2 Q What did you see him for, and how many</p> <p>3 occasions did you see him?</p> <p>4 A About a month. He just put heat pads on</p> <p>5 my back and shoulders.</p> <p>6 Q What is his name?</p> <p>7 A I don't know that, I have it at home and I</p> <p>8 have it on the tip of my tongue.</p> <p>9 Q Would you send that to me?</p> <p>10 A Sure.</p> <p>11 Q And when you send that, if you could just</p> <p>12 give me the address and phone number for Dr. Jaffe's</p> <p>13 office and Dr. Papau's office, or I can try and find</p> <p>14 them myself. That is the only one that we were</p> <p>15 asking for.</p> <p>16 Have you seen any doctor or any</p> <p>17 medical practitioner of any sort, other than</p> <p>18 Dr. Jaffe, Dr. Papau and the doctor that you just</p> <p>19 referred to since January 2000?</p> <p>20 A No.</p> <p>21 Q And just so I am clear, your only basis</p> <p>22 for seeking medical expenses in this case is not</p> <p>23 that you believe that your termination resulted in</p> <p>24 any medical condition --</p> |

1 A Right.  
 2 Q -- but rather that you lost your medical  
 3 insurance?  
 4 A Correct.  
 5 Q And you believe that you were wrongfully  
 6 terminated, therefore, you should have had medical  
 7 insurance; correct?  
 8 A Correct.  
 9 Q Have you since, 2000, seen, consulted with  
 10 anybody for any mental health condition, any  
 11 psychiatrists, phycologists, social worker regarding  
 12 any mental health issues?  
 13 A No.  
 14 Q In your November 6th, 2006 letter to me  
 15 you said, please forgive me, I was incorrect when I  
 16 stated new medical expenses since October 1st, 2004,  
 17 no claim for compensation is requested. I had  
 18 expenses for -- I have had no expenses for  
 19 psychiatric or psychological treatment. I am only  
 20 requesting compensation for monthly office visits  
 21 and existing medical expenses. You can disregard  
 22 the release form.  
 23 Now I am going to have you sign the  
 24 release form, but when you stated that there are no

1 claims for compensation, and there are no new  
 2 medical expenses since October 1st, 2004, what do  
 3 you mean?  
 4 A Oh, I thought that the question was asking  
 5 me, as a result of me getting fired, did I go seek  
 6 any doctors like psychologist or psychiatrists, but  
 7 I didn't.  
 8 Q But you have seen Dr. Jaffe?  
 9 A Yes.  
 10 Q And you are seeking reimbursement of the  
 11 money that you paid to him?  
 12 A Correct.  
 13 Q And that would be \$30 a month,  
 14 approximately?  
 15 A Yes.  
 16 Q And if you could particularize for me  
 17 what, exactly, what you paid to Dr. Jaffe and any  
 18 other medical practitioners to the extent that you  
 19 haven't already done so --  
 20 A Yeah.  
 21 Q -- that you are seeking reimbursement for;  
 22 you don't have to do that here, just when you send  
 23 me the information, make sure if you haven't already  
 24 given me the back-up documentation, the itemization

1 of those expenses that you are seeking reimbursement  
 2 for, please send that to me; okay?  
 3 A Okay.  
 4 Q That is part of the initial disclosures  
 5 that we sharing with each other.  
 6 Have you had any new medical problems  
 7 since October 1st, 2003?  
 8 A No.  
 9 Q Have you received any Social Security  
 10 disability, or Social Security benefits?  
 11 A No.  
 12 Q Ever?  
 13 A No.  
 14 Q In my Interrogatory number 9, National  
 15 Archives Interrogatory number 9, we asked you  
 16 whether you have received any of various sorts of  
 17 benefits, worker's compensation, FECA, various  
 18 others, you responded negative; does that mean that  
 19 you haven't received any of those --  
 20 A No.  
 21 Q -- that we asked about?  
 22 A Uh-uh.  
 23 Q And regarding welfare benefits, you  
 24 attached a September 27th, 2005 not eligible notice

1 and a written notice for general assistance; is that  
 2 correct?  
 3 A Correct.  
 4 Q You had applied for general assistance but  
 5 never received it?  
 6 A Right.  
 7 Q Have you ever received any medicare or  
 8 medicaid benefits since September 22nd, 2004?  
 9 A No. New laws make me ineligible.  
 10 Q I asked you if you have any original  
 11 documents that you posted at your workstation at any  
 12 time in 2004, and you responded that you did not; is  
 13 that correct?  
 14 A Correct.  
 15 Q Have you ever been a party, a plaintiff or  
 16 a defendant to any lawsuit other than this one?  
 17 A No.  
 18 Q Resulting from your car accident in 2003,  
 19 was there ever a lawsuit filed by the other  
 20 plaintiff?  
 21 A No, just therapy that was it; that's all I  
 22 needed.  
 23 Q Did you file -- did you ever retain a  
 24 lawyer in that?

1 A No.  
 2 Q Did anybody ever sue you?  
 3 A No.  
 4 Q Did your insurance company, or somebody  
 5 else's insurance company ever have any kind of legal  
 6 proceeding regarding that accident?  
 7 A No.  
 8 Q So you've never been involved in any civil  
 9 lawsuit, ever, other than this one?  
 10 A Right.  
 11 Q Have you ever been charged with anything  
 12 criminally?  
 13 A No.  
 14 Q So you've never been convicted of anything  
 15 criminally?  
 16 A Criminal -- is simple assault criminal?  
 17 Q Tell me what you've been --  
 18 A Ah -- I --  
 19 Q Let me just show you first, quickly, your  
 20 Affidavit which is Murray-17 -- this was already  
 21 marked as Murray-19 at the November 18th, 2004 EEO  
 22 statement that you made in this case, just take a  
 23 look at it; is that your statement?  
 24 A Yes.

1 Q And you submitted that in the EEO  
 2 proceeding?  
 3 A Correct.  
 4 Q Directing your attention to Page 13, is it  
 5 correct that you state there, the only thing that I  
 6 have been convicted of in the past 42 years of my  
 7 life is a parking ticket?  
 8 A Correct.  
 9 Q You did state that?  
 10 A Yes.  
 11 Q Is it true?  
 12 A Again, I thought that convictions were for  
 13 criminals were felonies, I didn't know that a  
 14 misdemeanor, or being found guilty of a parking  
 15 ticket was criminal, but a simple assault or  
 16 fighting is criminal, then yes.  
 17 Q Then yes, what?  
 18 A I was found guilty of simple assault.  
 19 Q When was that?  
 20 A I was 22 years old.  
 21 Q Where was that; what court?  
 22 A City Hall.  
 23 Q Philadelphia Common Pleas Court?  
 24 A Um-hum. Yes.

1 Q Were you convicted of any -- charged with,  
 2 or convicted of any felony?  
 3 A No.  
 4 Q Were you charged with, or convicted of any  
 5 aggravated assault?  
 6 A No.  
 7 Q Are you absolutely sure?  
 8 A The judge told me he was not going to give  
 9 me any felonies, because he did not want to ruin my  
 10 record if I wanted to go to school; that's what he  
 11 told me.  
 12 Q Were you charged or convicted of  
 13 possession of an instrument of crime?  
 14 A No, that is simple assault -- I mean a  
 15 misdemeanor.  
 16 Q Were you charged or convicted of reckless  
 17 endangerment?  
 18 A I was charged with everything, charged  
 19 with all those things, only convicted of --  
 20 Q So you were charged with aggravated  
 21 assault?  
 22 A Correct.  
 23 Q Charged with possession of an instrument  
 24 in a crime?

1 A Correct.  
 2 Q Charged with reckless endangerment?  
 3 A Correct.  
 4 Q But you were only convicted of simple  
 5 assault?  
 6 A Correct. I had one year of non-reporting  
 7 probation.  
 8 Q Did you serve any time in jail?  
 9 A No.  
 10 Q Okay. So it was one year probation?  
 11 A Yes.  
 12 Q And this arose from what incident?  
 13 A I got into a fight with my wife's two  
 14 brothers.  
 15 Q Okay.  
 16 A Social -- domestic dispute.  
 17 Q This was in 1983, around 1983?  
 18 A Yeah.  
 19 Q So your explanation for saying that you  
 20 have never been convicted of anything in 42 years in  
 21 this statement is what?  
 22 A No felonies.  
 23 Q Okay. You've never been to Chicago?  
 24 A No.

1 Q You submitted to us as part of your  
2 initial disclosure federal procedures 26A1, you tend  
3 to rely upon, or you may rely upon, do you have any  
4 additional persons that you want to add to that  
5 list; and you have until the end of the discovery  
6 period, is there anybody else that you can tell me  
7 that you will, at this time, that you intend to add?

8 A I don't know, I may call one other person.

9 Q Do you know who?

10 A Vanessa Adams. I don't know. I don't  
11 think that she would be too much help, and I don't  
12 want to make any more people go through this  
13 process.

14 Q And I mentioned to you in the hallway  
15 here, that we will be making supplemental  
16 disclosures probably next week where you will  
17 probably be identifying, as I mentioned, John Shako  
18 who is also referred to in the letters that you  
19 received, who is in the human resources capacity for  
20 the National Archives, and Investigator Louis Pepe,  
21 who we referred to in this deposition as well. But  
22 we will be making some supplemental disclosures to  
23 you next week, in addition to some additional  
24 documents.

1 One thing that I wanted to ask you  
2 just before closing, if the Department of Homeland  
3 Security does okay or produce to you part, or all of  
4 the investigative file regarding you -- regarding  
5 September 22nd, 2004, and the statements that you  
6 made on September 23rd, 2004; do you consent to our  
7 producing that information to you, and using some,  
8 or all of the Exhibits in this case?

9 A I guess not.

10 Q You agree to that or --

11 A Yeah. Okay.

12 Q And that would include any trial before  
13 Judge Shapiro?

14 A Correct.

15 (Whereupon, a brief discussion  
16 was held off the record.)

17 BY MR. SULLIVAN:

18 Q Just a couple more questions, Mr. Murray;  
19 did you, after your car accident in December of  
20 2003, fill out an authorization for the National  
21 Archives to release records to either a law firm or  
22 some entity in the wake of your car accident?

23 A I think so.

24 Q Do you remember the entity to whom you had

1 those records sent?

2 A Rand Spear.

3 Q Can you spell that?

4 A R-A-N-D S-P-E-A-R.

5 Q What is Rand Spear?

6 A He is an attorney.

7 Q Oh, it is the name of an attorney?

8 A Yes.

9 Q Where is he located?

10 A Walnut Street.

11 Q You contacted him with reference to your  
12 car accident?

13 A Yeah, I wanted to make sure that the car  
14 that I got pushed into, I wasn't going to have to  
15 pay for it since I got pushed into the back.

16 Q Did Mr. Spear, then, represent you in any  
17 way related to this accident?

18 A I think so, yeah.

19 Q What did he do for you; I don't want you  
20 to tell me about any conversations you had with him  
21 in confidence, but you can tell me what he did for  
22 you.

23 A He made sure that the therapy bills got  
24 paid, and that I didn't have to pay for the woman

1 whose car I rear ended.

2 Q Did you have to pay Mr. Spear any money?

3 A No.

4 Q Did Mr. Spear or you get any monetary  
5 recovery from anybody related to the car accident?

6 A No.

7 Q What did you give to the other driver, or  
8 the people in the other car, if anything?

9 A He handled that; I didn't give them  
10 anything.

11 Q Was there a settlement that was worked  
12 out?

13 A I think to get the car fixed.

14 Q You didn't pay Mr. Spear anything; what  
15 did he get out of representing you?

16 A I don't know. I never been involved in --  
17 this is my first car accident, so I don't know how  
18 it all works. Somebody said to just get a lawyer  
19 and have him handle the paperwork in case they  
20 decide to sue.

21 Q Did you sign any kind of settlement  
22 agreement to that?

23 A No.

24 Q Did you receive any papers at all from

|   |  |
|---|--|
| <p style="text-align: right;">Page 262</p> <p>1 Mr. Spear?</p> <p>2 A Any cash?</p> <p>3 Q Any documentation about what he was doing</p> <p>4 what was going on in the case?</p> <p>5 A Yes.</p> <p>6 Q Do you have that at home?</p> <p>7 A I think so.</p> <p>8 Q Would you please produce that for me?</p> <p>9 A Yes, sure.</p> <p>10 Q And I want each and every document that</p> <p>11 you received from Mr. Spear, or any other attorney</p> <p>12 related to the car accident, as well as anything</p> <p>13 that you sent to Mr. Spear, a copy of anything for</p> <p>14 the car accident; okay?</p> <p>15 A Um-hum.</p> <p>16 Q You mentioned that Dr. Jaffe has been your</p> <p>17 doctor for quite some time, and that even after you</p> <p>18 lost your federal medical insurance that you've been</p> <p>19 giving him almost \$30 for each visit; correct?</p> <p>20 A Correct.</p> <p>21 Q What medical insurance did you have while</p> <p>22 you were at the National Archives, at least in 2004?</p> <p>23 A Federal Employees Blue Cross/Blue Shield.</p> <p>24 Q And while you had Blue Cross/Blue Shield</p> | <p style="text-align: right;">Page 264</p> <p>1 questions; you are certainly welcomed to ask</p> <p>2 your sub questions. If you had a lawyer, your</p> <p>3 lawyer might choose to ask you some questions;</p> <p>4 doesn't always happen, it is up to you. You</p> <p>5 can certainly do that, but before I turn it</p> <p>6 over to you, though, is there anything that you</p> <p>7 want to clarify in terms that you stated in</p> <p>8 your deposition so far?</p> <p>9 THE WITNESS: I had made notes, but I left</p> <p>10 them at home, so...</p> <p>11 MR. SULLIVAN: Is there anything that you</p> <p>12 wanted to clarify; is there anything that you</p> <p>13 think you stated incorrectly that you want to</p> <p>14 change?</p> <p>15 THE WITNESS: No.</p> <p>16 MR. SULLIVAN: Do you want to ask yourself</p> <p>17 some questions now, and I will turn it over to</p> <p>18 you.</p> <p>19 THE WITNESS: No, I had some stuff that I</p> <p>20 wanted to discuss, but --</p> <p>21 MR. SULLIVAN: Do you need a moment to</p> <p>22 collect your thoughts?</p> <p>23 THE WITNESS: Yes.</p> <p>24 (Whereupon, a brief recess was</p> |
| <p style="text-align: right;">Page 263</p> <p>1 or whatever insurance you had in 2004 when you</p> <p>2 visited Dr. Jaffe that year, how much would you pay</p> <p>3 him while you had the insurance, per visit?</p> <p>4 A \$20.</p> <p>5 Q That was your co-pay?</p> <p>6 A Co-pay.</p> <p>7 Q When did you learn that Dr. Jaffe would</p> <p>8 require you to pay only \$30 even without any kind of</p> <p>9 insurance?</p> <p>10 A Someone in the office told me what it</p> <p>11 would cost without the insurance.</p> <p>12 Q And they said that was special</p> <p>13 arrangements made for you, or was this standard</p> <p>14 procedure?</p> <p>15 A Standard procedure if you didn't have</p> <p>16 insurance, this is what his office visits are, only</p> <p>17 \$30.</p> <p>18 Q And that is for a full office visit?</p> <p>19 A Yeah.</p> <p>20 Q And there has been nobody that has</p> <p>21 financially contributed to your medical treatment by</p> <p>22 Dr. Jaffe since you lost your federal insurance?</p> <p>23 A Correct.</p> <p>24 MR. SULLIVAN: I have no further</p>                                    | <p style="text-align: right;">Page 265</p> <p>1 taken.)</p> <p>2 THE WITNESS: No questions.</p> <p>3 MR. SULLIVAN: All right, we are on the</p> <p>4 record, and you don't want to proceed and ask</p> <p>5 any questions of yourself?</p> <p>6 THE WITNESS: No.</p> <p>7 MR. SULLIVAN: Thank you for coming.</p> <p>8 (Whereupon, the deposition</p> <p>9 concluded at approximately 2:14</p> <p>10 p.m.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>   |

34 (Pages 262 to 265)

## 1 CERTIFICATE

2  
3 I, RENEE HELMAR, a Shorthand Reporter, and  
4 Notary Public, certify that the foregoing is a true and  
5 accurate transcript of the proceedings of DARRYL  
6 MURRAY, who was first sworn by me at the time, place  
7 and on the date herein before set forth.

8 I further certify that I am neither attorney,  
9 nor counsel for, nor related to or employed by, any of  
10 the parties to the action in which this deposition was  
11 taken, and further that I am not a relative or employee  
12 of any attorney or counsel employed in this action, nor  
13 am I financially interested in this case.

14  
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17  
18 Renee Helmar

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20  
21  
22 Shorthand Reporter  
23  
24